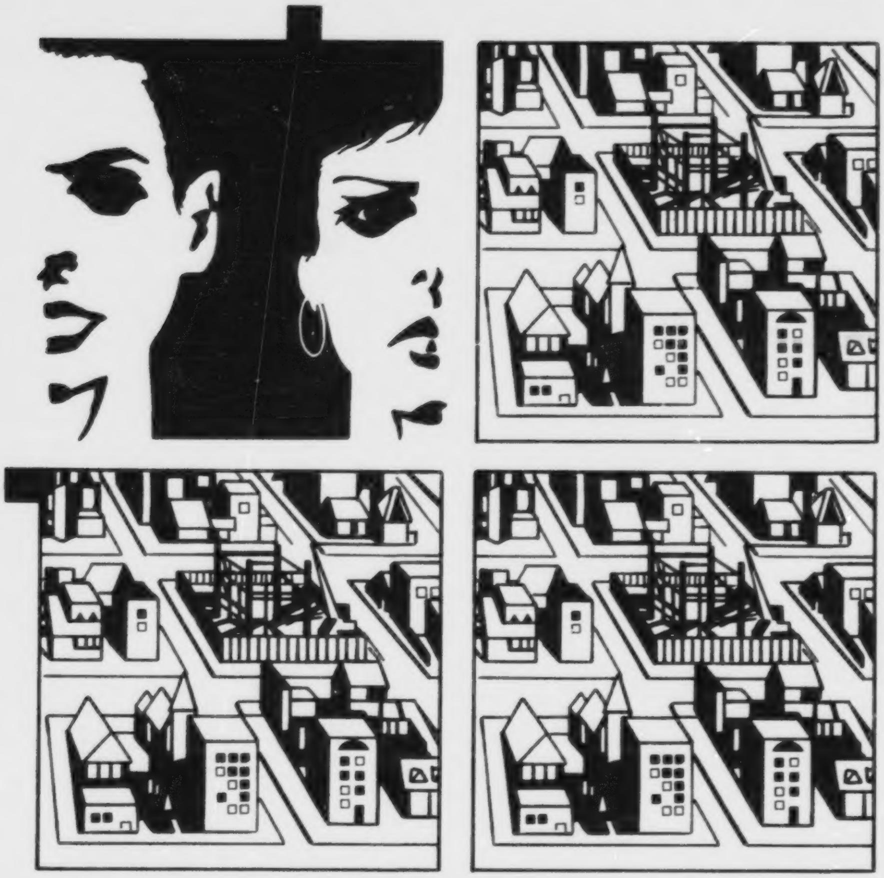
STREET PROSTITUTION

Assessing the impact of the law

Vancouver



Department of Justice
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STREET PROSTITUTION: ASSESSING THE IMPACT OF THE LAW

VANCOUVER

John Lowman
With the assistance of Laura Fraser

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I. EVALUATION OF BILL C-49 IN VANCOUVER

The research presented in this report is sponsored by Justice Canada as part of its evaluation of the revised version of Criminal Code section 195.1, a law designed to control street prostitution in Canadian cities. Perhaps the easiest way to describe how this research sets out to "evaluate" s.195.1 is to quote in full the "Statement of Work" as outlined by Justice Canada in the "Request for Proposals" circulated by Supply and Services Canada in January 1987 to would-be contractors:

A. STATEMENT OF WORK

1. Context

> "Bill C-49 was passed on 20 December 1985, by the parliament of Canada to respond to the problem of street solicitation for the purposes of prostitution. This Act abrogated section 195.1 of the Criminal Code and replaced it by a new section aimed at more effective control of street prostitution. This section ... makes criminal the attempt to communicate with or to stop a person, in a public place (redefined to include a private vehicle) for the purposes of obtaining the sexual services of a prostitute.[1] The Act includes a mandatory review clause which is to commence no later than three years after the coming into force of the Act and to terminate no more than a year after commencement...

2. Background

> "In light of the concerns expressed by many citizens' groups, by mayors and by police forces in many Canadian metropolitan areas between 1980 and 1983 in respect of street solicitation, the then Minister of Justice created the Special Committee on Pornography and Prostitution to look at these issues comprehensively. This Committee reported to the Minister in May, 1985. The Committee's Report made more than 100 recommendations, some 15 of which deal with the issue of adult prostitution. With respect to street solicitation, the Committee noted that the nuisance which it causes to citizens is the ill to be addressed. The Committee then added "This means that some perceptible interference with members of the public or neighbouring occupiers must be proven" (1985, 2:540). To that effect, the Committee recommended that section 195.1 be abrogated since "both the caution with which the courts now treat section 195.1 and the conviction in the ranks of the law enforcers that it is worthless, have deprived it of any force" (ibid.: 541). To deal effectively with the nuisance

---

[1] The law reads as follows:

> 1. Every person in a public place or in a place open to public view (a) stops or attempts to stop any motor vehicle, (b) impedes the free flow of pedestrian or vehicular traffic or ingress to or egress from premises adjacent to that place, or (c) stops or attempts to stop any person or in any way communicates or attempts to communicate with any person for the purpose of engaging in prostitution or obtaining the services of a prostitute is guilty of an offence punishable on summary conviction.
>
> 2. In this section, "public place" includes any place to which the public have access as of right or by invitation, express or implied, and any motor vehicle located in a public place or any place open to public view.

aspect of street solicitation, the Committee thought it appropriate to amend section 171 of the Code, "a provision which has a distinctive nuisance flavour to it" (ibid.) by, among other things, adding a new paragraph to cover explicitly the nuisance aspect of street soliciting. Bill C-49 has been said to follow the spirit of this recommendation. Indeed, in his address to the Legislative Committee of the House of Commons, the Minister of Justice indicated that Bill C-49 would achieve the goal which the Fraser Committee imparted to its recommendation, and would do so in a more effective way.[2]

"In coming to this recommendation, the Committee reviewed case law, the opinions expressed to it during its public hearings across the country and the empirical findings submitted to it by the Department of Justice's Research and Statistics Section. The Section has been mandated to conduct a programme of socio-legal research in support of this Committee's mandate. To this effect, five field studies on prostitution were conducted between the months of March and June, 1984. The results of these studies are published in five individual working papers.

"These studies attempted to deal with all aspects of the prostitution business, whether the practices of prostitutes or customers, whether in the streets or in massage parlours or escort services, and with all aspects of the control of the prostitution business, whether by the criminal justice system or by social service agencies. Major and smaller cities in each of the five geo-political areas of Canada were covered.

3. Description of the Evaluation

"In order to achieve the goal of completing the review of Bill C-49 within 3 years of its promulgation, it is proposed that studies of a format generally similar to that of the initial field studies be conducted. This will strengthen the quality of the data and will yield comparable data on the situation before and after implementation of the new law. These studies would attempt to provide answers to some of the questions which have been raised since the new law has come into force such as:

> Has C-49 contributed to a decrease in the street solicitation trade? If yes, to what extent? If no, why not?
>
> Has C-49 contributed to a displacement of prostitution activities? From the street to bars, hotels, etc? From some streets or areas of cities to others? From a more open environment to underground?
>
> Has C-49 contributed to modifying the practices of prostitution? What about the presence of pimps? What about ways for customers and prostitutes to make contact? And what about the age of prostitutes? Are there fewer juveniles? If yes, where have they gone?
>
> How has C-49 been implemented? What policies have police forces developed? How are investigations and arrests made? How often are decoys used? How successfully?

---

2. Authors' note: For a variety of reasons this interpretation is, at best, misleading, at worst incorrect, and indicates a selective use of the Fraser Committee's logic for law reform to justify Bill C-49. In fact the Fraser Committee was utterly opposed to the kind of reform that Bill C-49 represents, because it was not accompanied by changes to other prostitution laws.

Are charges laid in all cases? When are they laid/dropped? What are the determining factors? Are charges laid against customers? How often in comparison to charges against prostitutes? What about pimps? What, if any, have been the impacts of C-49 on investigations of bawdy houses, massage parlours or escort services?

What are the decisions of the Crown office when charges are laid by police? What are the determining factors?

Do prostitutes/customers charged plead guilty or not guilty? How often?

What is the Crown's case? If there has been a plea of not guilty what is the defence's case?

How many cases have been heard since proclamation of the law? What have the decisions been? Have there been Charter cases? Has there been any significant case law established?

What are the perceptions of the key actors involved (e.g., police, Crown prosecutors, defence attorneys, judges, prostitutes and customers, and ordinary citizens) of the new law? Is there a perception that it is effectively meeting its objective? That in so doing its advantages outweigh its disadvantages, or the contrary? What, in the experts' views, have been the impacts of the new law on the business of prostitution (e.g., some have expressed the fear that it would be pushed underground, thereby increasing violence against and the exploitation of prostitutes)? on pimping activities? on the prostitution of minors?

"To answer these questions, it is proposed that five field studies will be conducted, one in each of five major metropolitan areas (e.g., Vancouver, Calgary, Toronto, Montreal, and Halifax). Each study would be conducted by an experienced research team on behalf of the Department of Justice. These studies would involve the following two components:

a) Analysis of the Practices of Prostitution

"In order to assess the impacts of the new law on the practices of street solicitation, it will be essential to collect data on the broader aspects of prostitution. Indeed, one of the intended impacts of C-49 being to rid the streets of the more nuisance prone aspects of prostitution, some of the possible consequences might be that fewer persons would be practicing prostitution; or that the prostitutes would have moved to other "more acceptable" areas of the cities; or that they would have moved indoors, causing an increase in the hotel, bar, massage parlour or escort services aspects of the trade; or yet again that the prostitutes and customers would have developed new ways of making contact. As well, the number and type of persons (e.g., age; male/female ratio) practising may have changed as a consequence of tougher enforcement practices. Furthermore, the relations of prostitutes with pimps and customers may also have changed as a result of the new law.

"Therefore, in this component of the study, the research team will observe the prostitution scene and will attempt to conduct interviews with as many prostitutes, customers and pimps as possible.

b) Analysis of Control Practices

> "In this component of the study, the practices of the criminal justice system in respect of the implementation of the provisions of Bill C-49 will be thoroughly reviewed. It is proposed that, for the entire duration of the field work, information from police files, Crown office files and court files will be obtained and reviewed. (All measures to ensure that confidentiality of the persons involved is protected will be taken.) As well, persons representing each of these organizations as well as defence attorneys should be interviewed to obtain their views on the new law, its effectiveness, its advantages and its negative and/or unforeseen consequences. In this component, information should be obtained on investigations, charging practices, prosecutions and court hearings and decisions. Also, decisions in all significant court cases should be obtained and reviewed. Finally, local newspapers' coverage of the new law since its proclamation should be reviewed."

B. COMPONENTS OF THE STUDY

The Evaluation of Bill C-49 in Vancouver consists of seven main components as determined by the "Statement of Work" reproduced above, and two components that we have added. Three of the contracted sub-studies involved interviews with the key players of the prostitution business (prostitutes, tricks, and third parties to the trade, such as pimps and escort service operators), the prostitution control business (police, Crown attorneys, defence attorneys, judges, probation officers, social workers), and lobby groups involved either in prostitute rights advocacy or in the campaign to secure the resident's right to be protected from the putative impacts of the street prostitution trade. The purpose of the interviews was to a) canvass these various "key informants" for their opinions about the impact of Bill C-49 on the prostitution trade, and b) to obtain first hand accounts of the actual implementation of s.195.1 from the persons responsible for enforcing it and processing it through the courts. A further indicator of reactions to Bill C-49 is provided by the fourth component of the research, a review of opinions offered in, or described by Vancouver newspaper articles on prostitution. The fifth component of the research involved collection of information from a representative sample of police, court, and Crown files on s.195.1 cases. The files provide information about the laying of charges, the use of appearance notices and other mechanisms for releasing or detaining accused persons, the processing of the case through court, the sentences awarded, and any breaches of court orders that might be related to those cases. The files also provide basic information about accused persons (age, sex, "race,"[3] occupation, etc.). The final two sub-studies both attempt to examine the impact of Bill C-49 on the incidence of street and off-street prostitution. The first of these consists of a study of advertisements for sexual partners in an attempt to gauge whether the number of advertisements apparently placed by prostitutes in newspapers and other publications changed noticeably after the enactment of Bill C-49. The second consists of a systematic head counting of prostitutes and tricks that has allowed a fairly direct measure of the impact of Bill C-49 on the number of prostitutes working the street (head counts are available from 1982 to the present time). Table B (pp. 28-29)[4] describes the data bases provided by the seven sub-studies comprising the contracted evaluation. Added to this, we conducted two further studies, one a history of prostitution law enforcement in Vancouver, the other a study of "bad tricks" reported by prostitutes to a local prostitute rights organization.

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[3] We use six categories to describe "race" (white, black, Native Indian, Indo-pakistani, Oriental, and other). We have included information on "race" only because it is employed in various records that we describe throughout this research. The categories we employ are based on those to be found in police reports, bad trick sheets and the like.

C. EXPANDING THE PURVIEW OF THE STUDY

1. A History of Prostitution and Prostitution Law Enforcement in Vancouver

It is quite clear from the "Statement of Work" quoted above that as an "evaluation" this research is primarily concerned with examining the impact of s.195.1 on levels of street prostitution in urban Canada. As an "evaluation" it is mainly instrumentalist and technicist in conceptualization. It is an exercise in evaluating s.195.1 as a tool for "social engineering." But the process of trying to answer some of the questions posed by the "Statement of Work" as to why the implementation of s.195.1 has had certain effects -- and why, as we shall see, it appears to have had no sustained influence on levels of street prostitution in Vancouver -- has required us to go beyond the immediate context of s.195.1 enforcement and court practice to a much broader consideration of changing styles of prostitution and prostitution law enforcement in Vancouver, and the political and social milieu in which they occur. As an eighth component of the research, we present an analysis of a hundred years of prostitution law enforcement in Vancouver to provide the historical context for our interpretation of the forces impinging on the utility of s.195.1 as a tool for "social engineering." Such a study necessarily takes us beyond the confines of a purely instrumental and empiricist conception of what it means to "evaluate" the new street prostitution law to a consideration of the way that moral and political considerations have aligned to create a constellation of prostitution laws which, when examined historically and logically, appear to be contradictory and self-defeating.

2. Study of the Incidence of "Bad Tricks"

One of the questions posed by the Statement of Work describing the components of this evaluation concerned the effect of Bill C-49 on the safety of prostitutes. While we know that very few "bad tricks" (men who assault, sexually assault or rob prostitutes) are reported to the police, an alternative measure of the number of bad tricks is provided by the "Bad Trick Sheets" published first by ASP (the Alliance for the Safety of Prostitutes) and later by POWER (Prostitutes and Other Women for Equal Rights) through the 1980s. The primary purpose of the sheets is to circulate to prostitutes each other's descriptions of trick assaults, robberies and thefts. They also contain references to pimps, residents, and police officers who reportedly cause problems for prostitutes. We examine patterns of reports published in the Bad Trick Sheets for the year before and the two years after the enactment of Bill C-49 to see if any noticeable changes occurred. Tables summarising findings of this study appear in Appendix 11.

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[4] Tables A through L are located in the text. Tables numbered 1 through 206 are located in Appendices 3, 4, 7, and 11.

3. Limits to the Representativeness of the Research: The Need for a Study of "Community" Reactions

One of the Terms of Reference for the Evaluation of Bill C-49 was that interviews with key informants include "citizens in areas affected by street prostitution activities." Apart from this passing reference to the desire to examine "community" reactions, the Terms of Reference do not actually describe how many of these interviews should be conducted, and what ground they should cover. If the Terms were calling for a comprehensive survey of "community" reactions, it was clear to us that a representative survey of residents living in prostitution areas (and, preferably, outside them too) could not be accommodated within the budget allotted for the evaluation of s.195.1. Consequently, we entered a separate proposal to conduct such a study. Unfortunately, it was not approved. Thus while we did conduct interviews with various representatives of anti street prostitution lobby groups, we have been unable to conduct what could be considered a representative survey of "community" reactions to Bill C-49. We cannot, in this report, describe "community reactions" to Bill C-49.

D. ORGANIZATION OF THE REPORT

The report is divided into eight main sections and twelve appendices. The first section outlines the purpose of the evaluation and the second describes the methodological procedures guiding the various sub-studies comprising it. The third section of the report sets the stage for the presentation of our research findings by outlining the "official" history of s.195.1 since 1972. Generally, it has been suggested that street prostitution, particularly in Vancouver, spread considerably after 1978 as the result of the putative "failure" of first version of s.195.1 following a series of court decisions which are said to have rendered it unenforceable. It is this commonly held belief that led to calls for a new street prostitution law, and it is the rationale that led to the formulation and enactment of Bill C-49 in the first place. *One of the main purposes of this report is to challenge this explanation of the "spread" of street prostitution in Vancouver.* Having outlined the reasons for the enactment of Bill C-49, we then turn to the primary substantive components of the evaluation.

Section IV presents a description of the implementation of s.195.1 examining the police investigation and charging of the accused, the prosecution of cases and patterns of sentencing offenders. A discussion of ancillary prostitution control measures serves to complete our portrait of prostitution control in Vancouver since the enactment of Bill C-49 in December 1985.

The fifth section of the report turns to various questions about the impact of s.195.1 on the prostitution trade in Vancouver. Interviews with prostitutes and tricks are used to construct a profile of the prostitution trade (both street and off-street) in 1986 and 1987. The results are compared to the findings of the Vancouver Field Survey of Prostitution (Lowman, 1984) to see if any obvious changes in the the types of people participating in the Vancouver prostitution trade have occurred. The interviews also examine prostitute reactions to s.195.1 and their assessment of its impact on the prostitution trade. Interviews with social workers are used to gauge the impact of the new law on youth prostitutes and on the provision of services for them. We also review the opinions of police and Crown respondents on the impact of s.195.1 on street prostitution, and also about the effects of various ancillary police efforts to control street prostitution (particularly the Mount Pleasant Prostitution

Task Force in the summer of 1987).[5] These opinions are supplemented by head counts of the number of street prostitutes working various stroll areas between 1982 and the present. Some insight into the operation of escort services and other forms of off-street prostitution is provided by the analysis of commercial sex advertising trends, and by information provided by the interviews with prostitutes (Appendix 12). Further insight into the perceived effect of Bill C-49 is provided by the analysis of opinions described in Vancouver newspaper articles. The section ends with a discussion of public discourse on the "failure" of s.195.1, a failure usually attributed to "lenient" sentences.

The sixth section of the report discusses the various options for further revision of s.195.1 and other aspects of Canadian prostitution law that are currently being debated. The discussion focusses on the merits of arguments for a more punitive prostitution law in contrast to arguments calling for either the legalization or decriminalization of prostitution.

In Section VII of the report we reconstruct the history of prostitution in Vancouver and challenge the commonly held belief that street prostitution in Vancouver spread after the "failure" of the first version of s.195.1 (enacted in 1972 to replace Vagrancy C). We show that the expansion of street prostitution into the West End occurred long before jurisprudence created problems for s.195.1 enforcement. In contrast to the conventional wisdom, we suggest that a confluence of forces, both legal and extra-legal, contributed to the expansion of street prostitution in Vancouver in the late 1960s and early 1970s, and conclude that the expansion was not so much caused by the failure of s.195.1 to control street prostitution as it was (and still is) a reflection of the contradictory and self-defeating nature of the various prostitution statutes included in the Criminal Code. We develop this argument by looking at one hundred years of prostitution law enforcement in Vancouver. This analysis shows that no matter where prostitution occurs, a variety of forces converge to demand either its eradication or its relocation.

The report concludes with a summary of findings. Our general conclusion is that the dilemma facing our legislators is whether to a) criminalize prostitution itself, or b) create a legal milieu in which prostitutes can practice the trade in certain locations free from the threat of prosecution.

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[5] The locations of the various strolls are depicted on Maps 2 through 7 (Appendix 5). Map 1 shows the planning districts of Vancouver.

II. METHODOLOGY

The nine sub-studies comprising the Evaluation of s.195.1 in Vancouver utilize a variety of methods and tactics for developing a profile of s.195.1 implementation and for describing its impact on the prostitution trade in Vancouver. Wherever possible, research instruments -- particularly the prostitute interview schedule -- have been designed to enable comparison with the Vancouver Field Study of Prostitution (Lowman, 1984) so that it can be used as a baseline from which to try and assess the impact of the revised version of s.195.1. What follows is a detailed description of the various interview schedules and research protocols employed in each of the nine sub-studies.

A. PROSTITUTE AND TRICK INTERVIEWS

In the case of interviews with prostitutes and tricks, our object was to get a sample large enough to be able to produce a descriptive profile of both street and off-street prostitution since the enactment of Bill C-49 and, through a comparison with the 1984 field survey, to gauge the impact of s.195.1 on the activities of street prostitutes and their customers.[1] While in the cases of both tricks and prostitutes we would have liked to get larger samples to enhance their representativeness, in neither case did we manage to achieve the goals we had set. We ended up with 45 prostitute, and 17 trick interviews. A little more than half of the interviews were audio-taped and transcribed. Obviously our trick interviews cannot be treated as "representative" in any statistical sense. We use them anecdotally, as a sort of colour commentary. In the case of third parties to the trade or people who indirectly profit from prostitutes (pimps, escort service operators, and certain club owners), those who we thought would be least likely to consent to be interviewed, our object was simply to get as many interviews as we could. Unfortunately, our suspicions were correct; we managed to interview only two "professional pimps," and two operators of clubs locally renowned as places to meet prostitutes, none of whom consented to be audio-taped. We did, however, gain information about prostitute pick-up bars and escort services from prostitutes.

1. The Prostitute Interview

The prostitute interview was intended to provide an overview of prostitutes' work styles and work locations, to guage the way prostitutes perceive the impact of Bill C-49, and to describe prostitutes' experiences in being prosecuted for s.195.1 infractions. Questions were structured to capture differences between street and off-street prostitutes, and to gather information about different types of off-street prostitution.[2] We also asked a series of questions about the social biography of our subjects.

We met prostitutes in four ways: through various contacts on the street developed in the course of our 1984 research; through a church drop-in center located first in Mount Pleasant, and subsequently in Strathcona; through a downtown eastside social worker; and in a bar locally renowned as a prostitute pick-up location. Ours is thus a "snowball" sample with four nucleii.

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[1] The 1984 survey did not include information about interviews with tricks since only four were obtained.

[2] descriptions of escort and bar prostitution are reproduced in Appendix 12.

Only 3 of our sample of 45 prostitutes had never worked the street; 4 worked only in off-street locations at the time we interviewed them, but had worked the street since the enactment of Bill C-49 for short periods; 18 worked mainly on the street, but also worked in off-street locations; 3 had worked off-street locations occasionally since Bill C-49 was enacted, but during the six months prior to the interview worked only on the street; and 17 had worked nothing but the street. For the purposes of generating statistical information about off-street prostitutes we included only those subjects who turned more than 10% of their tricks in off-street locations during the six months prior to their being interviewed. Thus respondents who turned more than 10% of their tricks in off-street locations but worked primarily on the street were asked to answer questions about both street and off-street prostitution. Those subjects who currently worked on the street, either entirely or mostly (i.e. over the six months prior to the interview had met more than 90% of their customers in street locations) were considered "street prostitutes" for the purpose of this analysis. The interview is divided into nine sections.

Section 1 covers the locations in which respondents worked (% of tricks met in street and off-street locations, strolls worked in etc.), the locations they "turn" tricks, and the age at which the respondent started working as a prostitute.

Section 2 covers the effects of the law on the location of prostitution trade (Do people move to different strolls or work in different cities as a result of the law? Do they move on and off the street to avoid detection? Do they work at different times to avoid detection? etc.). We also asked our respondents if they knew any other prostitutes who had moved off the street as a result of Bill C-49. The majority of these questions related to prostitutes who currently work or had worked the street since Bill C-49 was enacted.

Section 3 included questions about how the law affects prostitutes' interactions with tricks. Questions related to the number of clients in an average week, prices for various services, and the services that are requested (distinguishing street and off-street prostitutes). In this section of the interview we also asked questions about the incidence of "bad tricks" before and after the enactment of Bill C-49, and what measures were utilized by street prostitutes and clients to avoid detection by police.

The focus of Section 4 was to establish the degree to which respondents are either "pimped" or worked independently, and whether the revision of s.195.1 has made prostitutes more susceptible to exploitation by third parties (especially pimps). All respondents were asked who, if anyone, they shared their income with, and whether the law had affected their decision to pay third parties (pimps, escort agencies, etc.) for protection or assistance in getting tricks. Prostitutes who acknowledged that they were or had been "pimped" were asked to describe their experiences in this respect.

Section 5 deals entirely with our respondents' knowledge of and first-hand experience with the law. All respondents were asked about their awareness of prostitution-related laws other than s.195.1. Those respondents with street experience were asked whether they had been charged with the communicating offence prior to and after the revison of s.195.1. Those who had been charged since the amendments answered a series of questions relating specifically to the number of charges, the legal proceedings involved and, if convicted, the sentences awarded. All respondents were asked to list any criminal convictions for offences other than s.195.1.

Section 6 referred specifically to escort agency prostitution and the nature of the prostitution trade in various Vancouver bars and clubs. A series of open-ended questions were designed to provide a portrait of the trade in those locations.

Section 7 dealt with services available to street prostitutes in the event that they were victimized by bad tricks. Most of this section sought to determine the extent of our respondents' knowledge of and experience with "Prostitutes and Other Women for Equal Rights," the organization which circulates "Bad Trick Sheets," and provides various other services for prostitutes. Respondents who worked the street were also asked whether they felt that residents' complaints about the street prostitution trade were valid.

Section 8 posed a variety of questions about respondents' preferences for prostitution law reform. These questions were asked of all respondents.

Section 9, the final part of the questionnaire, dealt with basic social and biographical data (place of birth, age, parents' occupations, etc.) and a series of questions drawn from our 1984 survey about the respondent's childhood and home life (including questions about family violence and sexual offences).

A copy of the interview schedule is located in Appendix 2A.

2. The Trick Interview

Like the prostitute survey, the main purpose of the trick interview was to describe the reactions of men who purchase prostitutes to the the possibilty of prosecution under s.195.1. Since very little information on tricks has been obtained in Canadian research, we also asked a variety of questions about the subject's experience with and use of prostitute services.

The interview was divided into four sections. The first section dealt with the subject's initial contact with a prostitute, the second section dealt with the subject's current use of prostitutes, the third section related to different aspects of prostitution law, and the final section of the interview to the subject's biography and socio-economic status.

We were only able to secure 17 interviews with tricks, all of whom were identified by two of the women appearing in our prostitute sample. None of the men had been charged under s.195.1. The results of the survey are reviewed in Appendix 10. The interview schedule is located in Appendix 2B.

B. ANALYSIS OF "BAD TRICK SHEETS"

In addition to information about "bad tricks" supplied by the prostitutes we interviewed, a more comprehensive insight into the incidence of trick violence and the nature of the attacks and some basic information about the offending men was gained through the "Bad Trick Sheets" supplied to us by a representative of Prostitutes and Other Women for Equal Rights (POWER). Our analysis of the Bad Trick Sheets covers the period from the beginning of 1985 to the early months of 1988. The number of Sheets published is determined by the flow of reports to the publishing organization (when an 8x14 inch sheet of paper is filled on both sides the Sheet is released). Since the descriptions of each bad trick vary in size, the number of incidents reported on each Sheet also varies. We treat each incident as a case (there were 629 incidents reported in the 40 month period that we examine).

The information contained in the Sheets is generally quite graphic. Frequently a full description of the attacker is supplied, and/or the vehicle is described. Sometimes the make of the vehicle and the license number are also recorded (prostitutes are urged to take license numbers whenever they can).

Our analysis describes the "race" of the accused, the date of the Sheet (not the date of the attack, which was not recorded on the Sheets), the characteristics of the incident, knowledge or suspicion of the offender being a "repeater," the number of men involved, the number of prostitutes involved, the area in which the prostitute was picked up, the type of prostitute victimized (male, female, transvestite or transsexual, juvenile), and the approximate age of the offender. We do not include cases where the offender was a pimp trying to recruit prostitutes, or when police or residents were mentioned (in the 40 month period police were mentioned 7 times, pimps 17 times, and residents 4 times); we are only interested here in bad tricks.

Since the Trick Sheets usually describe the "race" of the accused, we employed the codes used in other components of the research ("black," "white," "Indo-Pakistani," "Native American," "Oriental" and "other") in order to render comparable results.

The incidents cover a wide range of crimes, from very serious and life threatening assaults to threats and harassment. The only variables which are mutually exclusive of each other are "sexual assault" and "physical assault."

The variable "age of the offender" describes the victim's perception of the offender's age.

Repeat offenders were either recognized as such by prostitutes, the women compiling the tricks sheets, or as a result of our check for repeat license plate numbers.

Ultimately, we cannot draw any definitive conclusions from these data to the extent that we do not know how much fluctuations in the number of reports reflect rates of reporting as compared to rates of the incidence of "bad tricks," although they do establish that there are a large number of them.

C. INTERVIEWS WITH CRIMINAL JUSTICE PERSONNEL

In the case of criminal justice system personnel, the object of our sampling was to interview the most salient members of the police units responsible for enforcing s.195.1 and the Crown attorneys responsible for prosecuting cases. Since both enforcement and prosecution of s.195.1 are each administered through a single office, a fairly small number of in-depth interviews with key personnel was sufficient for our needs -- we interviewed seven police officers, three adult criminal court crown prosecutors, one Youth Court prosecutor, and the Regional Crown Attorney responsible for overseeing all criminal prosecutions in Vancouver. All the judges we contacted (10) in both Criminal and Family Courts declined to be interviewed.

Interviews were transcribed and edited to remove repetition, and to reorganize overly parenthetical sentence constructions. They were then returned to the interviewee so that they could ensure that the editing process did not alter the meaning of their statements, and that they had said what they intended to say. In only one instance were we asked by the respondent to delete a statement that had been made in the course of an interview (a police officer asked that we remove a one paragraph statement for security reasons -- since the statement had virtually nothing to do with the s.195.1 evaluation we readily complied with the request).

1. Police

Our primary objective in interviewing police officers was to get first hand information about the investigative strategies used to lay charges against prostitutes and tricks, and to examine ancillary efforts to control the street prostitution trade. In Vancouver, the Vice Intelligence Unit is responsible for enforcing s.195.1 on an on-going basis (the Vancouver police do not use sweeps). Several detectives are assigned to the s.195.1 detail at any one time, with a sergeant overseeing operations and liaising with the Crown to monitor jurisprudence and adjust enforcement tactics to keep pace with developments in case law. Police constables normally working in the patrol division are rotated into the s.195.1 unit for two week tours of duty (usually two men and one woman at any given time) to provide a continuous flow of fresh faces for decoy duty.

Several other police units are also more or less directly involved in prostitution control;[3] "Kiddy Car" (a two person unit devoted to youth offenders including young prostitutes), the Mount Pleasant Liaison Team (a two man unit devoted to crime prevention, research, and liaison with the Mount Pleasant community; much of their work is related to prostitution), and specially formed summer Task Forces (usually involving six or seven officers) designed to use public order and traffic laws, rather than s.195.1 itself, to drive prostitutes and their customers out of Mount Pleasant. In order to understand the operation of these various units, we interviewed the officer in charge of the s.195.1 enforcement unit, two of the four detectives who had worked on the unit as decoys or on arrest teams for much of 1987, two police women who had served as decoys (one of whom had also worked for "Kiddy Car" and on the 1987 Mount Pleasant Prostitution Task Force), and two members of the Mount Pleasant Liaison Team.

Transcripts of interviews with police officers are located in Appendix 1 (pp. A-1-69). The list of questions for the interviews are located in Appendix 2c. The transcripts of the interviews (Appendix 1) indicate ad lib questions that arose during the course of the interviews.

2. Crown Attorneys

Again, because the prosecution of s.195.1 is the responsibility of a single office, selection of interview subjects from the ranks of Vancouver prosecutors was fairly straightforward. We interviewed the Regional Crown Attorney who was at that time responsible, in conjunction with the Provincial Attorney General's office, for establishing policy in relation to s.195.1 (and all other) prosecutions. We also interviewed the Crown Attorney immediately overseeing the implementation of that policy in Vancouver provincial court (he had also prosecuted about 200 s.195.1 cases), and his counterpart in the Vancouver Family Court where youth offenders are tried. In addition to these administrative personnel, we interviewed two other Crown attorneys who, among other things, were at that time prosecuting a substantial number of s.195.1 cases (each person, one male and one female, had prosecuted about 100 cases). The purpose of the interviews was to get first hand accounts of the evidence required to secure convictions, the problems experienced in the prosecution of cases, the types of sentences requested by prosecutors, and the effect of various sentences on the behavior of prostitutes and johns.

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[3] In addition to these units, regular patrol police also constantly interact with prostitutes (carrying out ID checks, etc.) in the general process of trying to maintain "order" on the streets. Since our main focus was on s.195.1 enforcement, and given a limited budget, we did not interview general patrol police.

The formal list of questions for interviews with prosecutors is located in Appendix 2d. The transcripts of the interviews (Appendix 1, pp. A-70-108) depict additional questions ad libbed at the time.

3. Defence Attorneys

We interviewed two defence lawyers, one of whom has become something of a celebrity in Vancouver by virtue of having been involved in some of the key legal decisions related to s.195.1 in the 1970s, and who now, along with one associate, represents a substantial proportion of defendants charged with communicating in Vancouver. An indication of the notoriety of this attorney is that every reference to defence lawyers, apart from four (there were 40 of them), in the Vancouver newspaper articles we collected from 1984 to April 1988 was to him. Both he and his associate are ardent critics of s.195.1, and will not take a case if the defendant intends to plead guilty.

The purpose of the interview was to examine tactics employed by defence attorneys to defend clients charged with s.195.1, the effect of various judicial decisions on evidential requirements and court proceedings, the likely effect of harsher sentences on street prostitutes and their customers, the history of street prostitution in Vancouver, and the overall philosophy of s.195.1 as a criminal law and as a device for controlling street prostitution. A copy of the interview is located in Appendix 2e. The transcript of the interview is in Appendix 1 (pp. A-211-220).

4. Judges

We requested interviews with ten judges from both Provincial and Family Courts. None of them consented to be interviewed.

5. Probation Officers

Towards the end of the study we realized that while the "Statement of Work" did not call for them, we should have interviewed several probation officers to describe the kinds of discretionary restrictions they impose on prostitutes, the frequency with which prostitutes breach probation conditions, methods for discovering violations, and responses to violators, etc.. We wrote to the B.C. Probation Service requesting permission to conduct interviews, but unfortunately we were unable to secure permission to conduct them in time to be able to include the results in the final Report.

6. Social Workers

In Vancouver, there are virtually no services available specifically for adult prostitutes (apart from a drop-in center at a Strathcona church and the services, such as the "Bad Trick Sheet," provided by Prostitutes and Other Women for Equal Rights) although many prostitutes are partially supported by the welfare system and, no doubt, use other social services for counselling, illicit drug and alcohol problem treatment, health services and other types of assistance. Our main interest in the social service system was in its treatment of youths known to be involved in prostitution. The main responsibility for providing income assistance and other welfare services in British Columbia is the Ministry of Social Services and Housing. The Ministry's three main responsibilities include a) administration of the Guaranteed Annual Income for Need Act (i.e. welfare payments to adults); b) child protection, under the auspices of the Family and Child Services Act; and c) provision of services under the terms of the Mental Health Act. Our concern was mainly with the way the enforcement of s.195.1 interacts with the operation of the Family and Child Services Act in the provision of social services for "street kids" or "lumpen youth."[4]

Because the social service system, even though it comes under the purview of one Ministry, is fragmented, we interviewed workers in three different components of that system. These included: a) Interviews with two of four street workers contracted by M.S.S.H to identify street youths and to provide them with various kinds of services and referrals to other programs. b) Interviews with three "Outreach" personnel (two social workers and an administrator); Outreach is the main program for youths once they have been identified as in need of on-going care, support and/or control. There are 100 youths in the program, nearly all of whom are girls. c) An interview with a social worker from "Emergency Services," the Ministry of Social Service and Housing office which deals with all social service functions outside the regular hours of the Ministry's main offices (i.e. on the weekends, and from five at night to nine the next morning on weekdays). Since prostitutes usually work during the evening or at night, youth prostitutes, when they are initially identified by the police, are often taken to Emergency Services to determine who is legally responsible for them. Such youths may be "apprehended" under the terms of the Family and Child Services Act, even if they have not been prosecuted for s.195.1 under the Young Offender's Act. If they are apprehended, they are made wards of the state if it is determined that they are "in need of protection" (youths can also enter programs by "agreement" i.e. with the permission of their parent or guardian). Once apprehended a youth might be placed in a foster home or group home, but he/she can then run away and return to the street.

The formal list of questions for interviews with social workers is located in Appendix 2f. The transcripts of the interviews indicate any additional questions that were asked at the time that the interview was conducted. The transcripts of the interviews are located in Appendix 1 (pp. A-109-148).

D. INTERVIEWS WITH REPRESENTATIVES OF PRIVATE LOBBY GROUPS

The remaining set of interviews was with representatives of the main rights groups lobbying either against the street prostitution trade (or, in one case, prostitution itself), or working to secure prostitute rights, particularly their right to work in a society where prostitution is legal but where it is impossible to find a location to conduct the trade without breaking the law. We identified persons to interview by examining the frequency of the representation of different speakers in newspaper articles mentioning s.195.1. In the case of persons representing the resident's right to be protected, only two persons (both women) were quoted more than once. We interviewed both of them (plus another member of one of the two groups who was present at the interview). In the case of persons representing prostitutes rights, while a number of women's groups were mentioned, by far the greatest representation was of the main spokeswoman of Prostitutes and Other Women for Equal Rights. We interviewed her and a second member of the organization.

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[4] "Lumpen" in the sense that they no longer live with one or both natural parents (cf. Lowman 1987).

1. Residents' Rights Lobby Groups: "Courtwatch" and the "Mount Pleasant Action Group"

We interviewed representatives of two residents' rights groups, the "Mount Pleasant Action Group" (MPAG) and "Courtwatch."[5] The interview with MPAG was with two of the founding members of that organization. It should be noted that these groups are extremely small -- Courtwatch consists of only two people as far as we can tell, and the Mount Pleasant Action Group had no more than about ten or fifteen people at the time that it was most active. Despite their small size, these groups have managed to occasion on-going newspaper coverage throughout the past three years (see, e.g. the news summaries provided in Appendix 7).[6] In 1985, 1986 and 1987 the views and activities of these organizations were mentioned on 29 occasions. The positions of these groups cannot be unproblematically treated as indicative of "community reactions," hence the need for a much larger survey of resident opinions in areas of street prostitution. The interviews with the representatives of the two lobby groups do, nevertheless, provide valuable insights about their analysis of what caused the "street prostitution problem" in Vancouver, and their campaign for the revision of s.195.1.

We also interviewed a local Mount Pleasant planner (who works with the Mount Pleasant Police Liaison Team and the various residents' rights groups) to record his views on the impact of s.195.1 on the incidence of prostitution in Mount Pleasant.

Each of these interviews was open ended. Transcripts are located in Appendix 1 (pp. A-149-195).

2. Strathcona Community Organizers

Only in the latter part of 1987 did publicity of adverse resident reactions to prostitution in Strathcona begin to appear in the local newsmedia, and while there is disagreement in the area about what should be done about a prostitution trade that has existed in the area for the past 100 years, local residents and other concerned groups have at least agreed to try and develop an alternative to the one-sided exclusionary stance to street prostitution that was taken by West End and Mount Pleasant residents. One aim of the members of local community committees and property owners and tenants groups is to try and avoid sensationalizing issues through the newsmedia. We interviewed two people active in local committee work relating to prostitution problems in Strathcona. One is a local social worker (Street Worker #1, Appendix 1), the other is a member of a standing committee on community issues in Strathcona. Although the latter interview was not taped, it gave us useful information about the different approach to street prostitution that has evolved in Strathcona (see Section VI 5).

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[5] Now called "Mount Pleasant Watch."

[6] Twelve letters from the spokeswoman of Courtwatch to the Editors of the two main Vancouver daily newspapers were published in 1985, 1986 and 1987.

3. Prostitutes' Rights Group: "POWER" (Prostitutes and Other Women for Equal Rights)

Like the anti street prostitution lobby groups POWER has a fairly small active membership, although many prostitutes do participate in the activities of the organization to the extent that they provide information for the "Bad Trick Sheet"[7] circulated to women working the street. Like the anti street prostitution groups the opinions of the main POWER spokeswoman (who was also involved with the earlier "Alliance for the Safety of Prostitutes") were frequently reported in local newspapers (29 times). The interview we conducted dealt with the origins, history and purpose of the organization, and then focussed on the impact of s.195.1 on the prostitution trade in Vancouver (particularly the effect of the law on the safety of prostitutes, the number of prostitutes on the street, the number of youths on the street, the consequences of area restrictions, the incidence of pimping, and the likely effects of heavier sentences on the incidence of street prostitution). Other policy options were also discussed.

The interview was open-ended. The transcript is located in Appendix 1 (pp. A-196-210).

4. Other Players

We tried to gain access wherever possible to third parties who benefit in one way or another from the prostitution trade, particularly pimps and the managers and owners of bars locally renowned as places to meet prostitutes. These interviews were unstructured to the extent that they were always ad hoc -- a matter of being in the right place, with the right people, at the right time -- and informal; with the exception of one "pimp," none of these respondents gave permission to audio tape their remarks. While these interviews did yield some invaluable information, we turn mostly to the interviews with prostitutes to describe the off-street prostitution trade.

E. STUDY OF POLICE COURT AND CROWN FILES

We were given permission by police, the Crown and both Provincial and Family Courts in Vancouver to examine their files on all charges laid under s.195.1. After reviewing the contents of police, court and Crown files, we realized that all the information we required could be collected from the court and Crown files, since they also contained copies of the police report pertinent to each case. The coding of court and Crown file information has made it possible to examine the characteristics of s.195.1 enforcement (date, location, area, and custody/bail/release conditions), court proceedings (number of court appearances, timing of court appearances, pleas, and dispositions) and sentencing (types of sentence, conditions of sentence, and breaches of conditions), as well as providing valuable information about customers and prostitutes themselves (age, sex, "race," place of residence, occupation, and past criminal record). A copy of the coding scheme is located in Appendix 2g.

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[7] For a description of the Sheets see Section II B above.

1. Sampling Procedures:

The sample of prostitutes and customers was drawn from two sources. Cases involving youth prostitutes were identified in Family Court records from a list of individuals charged with the offence compiled from a register of charges kept by court personnel. A one in two sample was created by selecting every second case from an alphabetically ordered list of cases.

The sample of adult cases was selected from a listing of charges extracted from special forms -- "Form 1s" -- created by the office of the Crown specifically to enable the monitoring of s.195.1 cases. Form 1s consist of alphabetically ordered summary sheets listing a) the name of the offender; b) both Crown and police case numbers; c) the names of the Crown prosecutor, the Judge and defence lawyer; d) sentence and other relevant information regarding the accused's previous record or charges; and, in some cases, e) comments made by the Judge, Crown and defence in relation to sentencing. We selected every third Case Report (including both prostitutes and customers) from a list of Form 1's to create the sample of adult cases. The Form 1's included cases occurring from the first implementation of s.195.1 (January 1986) to cases coming to trial by the end of July 1987. Since cases usually take three to four months to come to court, the sample mainly includes cases in which charges had been laid prior to the end of February 1987. A few cases involving charges laid in March and April did find their way into the sample if they came to trial more rapidly than the norm. Since the file of Form 1s from which we drew our sample are supposed to relate only to completed cases, few unfinished cases appear in our sample.[8] We took a one in three sample of the cases appearing in the Form 1 file.

In addition to the data provided by the sample of cases, we decided to collect as much information about the characteristics of tricks as possible since very little is currently available. To this end, all available provincial Crown files on customers were identified, and a subset of the information collected for the main customer sample was recorded for the total population of customers who had been identified at that time. This information included the date and location of the charge, and the marital status, "race," occupation, age and prior record of the accused.

The final sample consisted of 79 cases involving customers (no youth customers were found), 208 involving adult prostitutes and 54 youth prostitutes. The supplemental information on customers was drawn from a further 160 cases. The 54 youth charges involved 51 individuals (i.e. there were three repeat offenders) and the 208 adult prostitute charges involved 191 individuals (since we sampled every third case, only third and fourth offenders could appear more than once in the sample). There were no repeat trick offenders. We use both cases and individuals as units of analysis depending on the information being presented.

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[8] In the case of adult prostitutes, the sample included four cases where a warrant was still outstanding -- these were presumably misfiled as completed cases. Since our sample of youths was taken from a a list of charges, our sample included four unfinished cases, and four cases where a bench warrant was still outstanding.

2. Information Collected

A copy of the information coding form is provided in Appendix 2g. What follows is a brief description of the procedures and criteria used to locate and record data.

a) Offence Characteristics

The case number, name of accused, police file number and person accused (prostitute or customer) were all taken from the Form 1's kept by the Crown's office. In the case of youths, this information was available from the register of charges described above. The date, time and location of the incident were generally taken from the police report to the Crown. Other charges laid at the time of arrest (of which there were very few) were also recorded in police reports.

b) Characteristics of the Accused

Most of the information on the characteristics of defendants was found in the police report to the Crown. The gender of the accused was the single problematic variable in this section to the extent that it was occasionally difficult to determine whether an adult prostitute was a transsexual or a transvestite. Defendants were recorded as transsexual only if we could find evidence that they were not transvestites, as would be the case when the police "booking sheet" (made out only *if the person was arrested*) included a notation that the accused used hormones. If the accused was not arrested and booked into the police holding cells, there was no way of distinguishing transvestites and transsexuals. Occasionally the marital status, occupation and "race" of the accused were not recorded in the files, particularly in the case of tricks, although in many of these cases the defendant's name was a good indicator of his "race."

c) Prior Record of Accused

The prior record of the accused adult was drawn from CPIC or CNI records available in Crown and court files. If this information was not in these files we assumed that the accused had no record. This assumption may be problematic since, in a small proportion of cases, the police report indicated that the accused *did* have a record, but that it was not included in the file. In this event we excluded the case from this part of the analysis by coding the variable on criminal record as a missing value. From the large amount of information that was present we believe that, for the most part, the records are fairly accurate. In the case of youths the records of their prior offences occurring in Vancouver (records of offences outside Vancouver were not available) are probably fairly accurate since files are kept on offenders rather than on cases so that one can review the whole Family Court history of any given person.

Records of past Vagrancy C charges and convictions were only available if they were listed on a CPIC file. Given that Vag C was repealed in 1972, it is not surprising that only a small proportion of the sample prostitutes had been charged with or convicted of this offence (conversely, the presence of some people in the sample who *had* been charged or convicted under this law indicates the longevity of some prostitution careers).

The number of communicating charges of adults not leading to conviction was calculated by examining all Form 1's pertaining to an individual accused and recording the number of times they had been found not guilty, or where charges against them had been dismissed or stayed. Similarly, information about the number of the accused's previous s.195.1 convictions was obtained from the Form 1's (these only contained information about charges laid since the revision of the law). Tracing this information was complicated in a few situations where an individual was charged several times within a short period of time so that charges did not necessarily reach court in the order that they were laid. In these cases, the police file numbers indicated the order in which the charges had been laid. In the Family Court files it was much easier to trace previous 195.1 offences since all information is located in the same file.

Records of other types of prostitution charges were also drawn from CPIC and CNI records.

d) Processing of Accused

Information about patterns of arrest[9] versus the use of appearance notices could be ascertained from police reports. If this information was not recorded on police reports, the presence or absence of a "booking sheet" in either the Crown or Court files indicated if the accused had been arrested or not. The appearance of an accused in court the day after the laying of the charge also indicated that they had been held for a bail hearing. We also recorded information from the booking sheets about weapons listed among the accused's personal belongings, and whether the accused was described by police as an illicit drug addict or alcoholic.

The single most difficult variable to compute in the study of cases was the amount of time a given accused spent in custody in instances where a detention order was associated with the case. The figures that we provide include any time served by the accused after being charged and prior to being sentenced, i.e. time spent in custody either immediately following the laying of the s.195.1 charge, or following a subsequent bail breach or an accused's "failure to appear" (FTA) in court to answer to that charge. This information was provided in the Court files. If an accused was arrested on an FTA or a bail breach, it is likely that they would have been detained for at least one more night for a court appearance. Our coding problems began when an accused was detained for more than one day because this usually happened in the case where more than one charge was involved -- as, for example, when a repeat offender was charged with a breach of probation as a result of being charged with a s.195.1 offence. In such cases it is difficult to know if such a repeat offender would have been detained if they had *not* also breached probation. Several of the accused were detained and released on a number of occasions after being charged and prior to appearing for trial on a given s.195.1 charge. It is difficult to decide if any of this time should be attributed to that particular s.195.1 charge, since without it, the accused might not have been detained on a new but unrelated charge. In calculating time spent in custody prior to sentencing for a given s.195.1 charge we have included a) any detention occurring as a result of that particular charge, even if it was associated with a breach of probation or bail order associated with another charge, and b) any detention resulting from a breach of a bail order related to the particular s.195.1 charge in question. What is clear is that individuals are rarely detained after a bail hearing simply as a result of a s.195.1 charge, but rather as a result of the combination of such charges with FTAs, and bail and probation breaches. We do not have a sufficiently large sample of multiple offenders to ascertain the extent to which repeat s.195.1 offending is seen by judges as being serious enough to warrant the pre-trial detention of prostitutes and tricks.

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[9] From May 1986 until the Pithart decision in April 1987 Vancouver police routinely arrested and detained persons charged with s.195.1.

e) The Court Case

Information regarding aspects of the legal processing of the case were recorded in greatest detail in the Court files. Records included: a) the number of court appearances; b) dates of the first and last appearances; c) failures to appear and breaches of bail conditions; d) names of the prosecutor, defence and the judge; e) the plea of the accused; f) the disposition; e) the sentence; f) probation conditions (if any); and g) subsequent breaches of probation.

Information about the defence other than the name of the attorney (i.e. whether the accused was represented by duty counsel, legal aid lawyer, or privately contracted lawyer) could not be obtained from the various files that we scrutinized. Most of the prostitutes we interviewed who had been charged under s.195.1 were defended by lawyers funded through Legal Aid.

f) Sentencing

Both Crown and Court files noted if pre-sentence reports had been prepared, although very few were ordered in the case of either tricks or adult prostitutes. In the case of youths, pre-sentence reports were contained in the Court files.

On the rare occasion that an adult offender was referred for counselling, it was usually recorded as part of a probation order described in both the Court and Crown files.

Information regarding the sentence requested by the prosecutor and any comments the Judge may have made about the case are not consistently recorded in any of the files that we scrutinized. Since prosecutors routinely follow sentence guidelines established for them by the Crown administration, the guidelines are described separately.

g) Probation Breaches, Non-Payment of Fines

Breaches of probation orders (as of August 1987, the time of the file search) were recorded in the Court files. Information about defaults of fines was also available from the Court files in the form of warrants of committal (for non-payment). Once an individual has been arrested on a committal warrant, they are taken to one of the Lower Mainland detention centers. If the defaulter pays the fine at that time, they are released. While we do know how many warrants of committal were ordered, it was not always possible to ascertain what proportion of offenders paid the fine or served the time in default since this information was not necessarily in the files.

F. PROSTITUTION NEWSCOVERAGE IN VANCOUVER'S DAILY NEWSPAPERS

We examine the content of all articles mentioning prostitution in Vancouver's two main daily newspapers, the Vancouver Sun and the Province, appearing between 1st January 1985 to 31st March 1988. All articles, editorials and letters to the editor mentioning the terms "prostitute," or "prostitution" (or any synonym) were collected daily throughout these periods. Short descriptions of all the articles are provided in Appendix 6.[10] These summaries include the headline of the article and describe the main news themes and/or the points of view of the various commentators represented. The summaries indicate general trends in prostitution news reporting, and show how the newsworthiness of different aspects of prostitution fluctuate temporally. The descriptions also provide a general impression of the politics of prostitution in Vancouver.

The articles, editorials and letters were then divided into two groups: a) those mentioning Bill C-49 or the revised version of s.195.1 and b) all other articles. Articles evaluating Bill C-49 were then coded so that we could develop a quantitative profile of the types of perspectives that were presented. Since our quantitative analysis was designed to guage the perceived effects of s.195.1, it is restricted to an examination of articles appearing after the enactment of Bill C-49. A total of 139 articles in 1986 and 1987 containing statements evaluating Bill C-49 were identified for this quantitative analysis. A copy of the coding form is provided in Appendix 2h.

1. Selection Criteria: General Prostitution Articles

The selection of articles relating to prostitution in general was fairly straightforward. These news items include general interest reporting of such things as the lifestyle of young prostitutes, problems in prostitution stroll areas, law enforcement practices, public opinion, the trade in other countries, the problems experienced by televangelists, and so on (provided they do not specifically relate to Bill C-49 or s.195.1). This sample includes the bulk of the newspaper articles we collected.

2. Selection Criteria: Articles Referring to Bill C-49 or s.195.1

The selection of articles to be included in this group was somewhat more problematic than the selection of prostitution items generally. To be included in this group an article, editorial or letter had to be triggered either specifically by the new law itself, or it had to include "evaluative" or "judgmental" references to Bill C-49 or s.195.1 (commonly referred to erroneously as the "soliciting" law) be they made by the writer of the article, or someone quoted in the article. Obviously, the selection process is somewhat subjective, although in most cases we felt that such coding decisions were quite straightforward. The articles were all coded by the same person.

The appearance of articles pertaining to Bill C-49 began at the time of the Government's announcement of the specific amendments being proposed. Prior to that time statements were made about possible changes to the law, but articles discussing these proposals were not selected as pertaining specifically to Bill C-49 since comments regarding proposed or desired changes to prostitution law were not addressed to the particular aspects of the Bill.

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[10] These summaries also include Sun articles appearing in 1984.

In 1985, following the first reading of Bill C-49 and during the period immediately after its enactment, the selection of articles was quite straightforward since the Bill was the subject of on-going evaluation and commentary.

In the latter half of 1986 and throughout 1987 and 1988 the criterion for selecting articles as pertaining to s.195.1 became more difficult to apply as fewer and fewer newspaper items were specifically written to evaluate or comment upon it. Nevertheless, a variety of articles not specifically designed to comment on s.195.1 did implicitly contain reference to the reported impact of the law on prostitutes, its impact on levels of prostitution in various areas of the city, its performance as a prostitution control device, and its processing through court. Thus, while many articles on prostitution were not designed explicitly to comment on the effectiveness of Bill C-49 or the general political philosophy underlying it, they did, nonetheless, reveal the attitudes of various lobby groups and criminal justice system personnel to the communicating law. When they did they were included in the group of articles relating to s.195.1.

a) 1986-1987 Article Content: The Coding Form

The coding form (Appendix 2h), designed to summarize the various perspectives on the "success" (or "failure") and general impact of Bill C-49, consists of two main sections. The first section covers the basic characteristics of the article -- which paper it appeared in, the date, the "type" of article, the author, the event triggering the story -- and basic information about the type of prostitution mentioned, other types of crime involved and the area of the city being discussed.

The second section includes information about the persons being represented in the article. These commentators range from government spokespersons and criminal justice personnel to private groups and individuals who are in some way affected by or have opinions about the law. They include a) Federal Government spokespersons (distinguishing Conservative, Liberal, and New Democrat commentators); b) Provincial Government spokespersons (distinguishing New Democrat and Social Credit commentators); c) municipal government spokespersons; d) police spokespersons; e) social workers; f) anti street prostitution lobby groups; g) women's organizations; h) prostitutes; i) academics; j) journalists and newspaper editors; k) Supreme Court judges; l) Provincial and County Court judges; m) Crown attorneys n) defence attorneys; o) civil liberties groups; and p) others.

Three general categories of commentary are described: a) comments which favour the law and reasons for such impressions; b) comments which discuss practical problems associated with the implementation of the law (mainly in terms of law enforcement or court proceedings), and c) comments which are critical of the overall philosophy of the law.

G. COUNTS OF STREET PROSTITUTES AND TRICKS

In conducting the Vancouver Field Study of Prostitution in 1984, we realized that widely accepted accounts of the encroachment of street prostitution into the West End of Vancouver offered by media commentators, politicians and West End anti street prostitution lobby groups (such as the "Concerned Residents of the West End" and "Shame the Johns") were not supported by the body of evidence that we were able to collect at that time (Lowman, 1984, pp. 300-302, 441-458). Far from being a result of the failure of the first version of s.195.1 as these various commentators claimed, we found that the spread of street prostitution in Vancouver occurred long before jurisprudence is said to have rendered the "soliciting" law ineffective (we discuss the reasons for these changes in Section VII 3 of this report). We thus began monitoring levels of street prostitution by conducting head counts of prostitutes and customers in order to provide an independent measure of the effects of different prostitution control strategies on the intensity and spatial distribution of prostitution in Vancouver. The counts allowed description of patterns of street prostitution through the day and month by month, and revealed the impact of various law enforcement techniques and other legal strategies (such as the West End nuisance injunction) on the location of the street trade (Lowman, 1984, pp. 300-365).

When we realized in 1985 that the repeal of the first version of s.195.1 was imminent we once again began conducting head counts of prostitutes to form a data base from which to assess the impact of new legislation. Weekly counts were conducted in April, May and June 1985, and resumed in October that year. Since then -- with the exception of August, September and October 1986 -- we have continued to conduct weekly counts of prostitutes and customers. The weekly counts were made between 10.00 p.m. and 12.00 midnight each Thursday (a time of peak activity according to six twenty four hour counts conducted in 1984, 1987 and 1988). A count would involve a single traverse of all streets and back alleys in each of the three main prostitution strolls. Post Bill C-49 counts may underestimate the number of women on the street at any given time since one of the main effects of enforcement of the new law has been to disperse prostitutes; sometimes they work whenever and wherever possible (including streets outside the recognized strolls).

Counts were carried out in the three main Vancouver strolls -- Strathcona, Mount Pleasant and the Granville-Richards-Seymour-Homer downtown area (See Map 7)[11] -- that have been in use since the enactment of Bill C-49 in December 1985. We did not conduct counts in the Cordova-Columbia area (stroll 3, Map 7) where women worked infrequently in 1986 and 1987, although we did check periodically to ensure that we did not miss displacement of women from other areas into this location. Some women also work the Hastings street skid road strip itself, just east of what is now the Strathcona stroll (Area 7, Map 3), but it is difficult to distinguish prostitutes from other women in this area of diverse street activities. Many of the women who work in the skid road area also meet dates in local hotel bars; when working the street they usually move to nearby Strathcona.[12] The streets adajacent to skid road (Columbia and Cordova) may become more important if s.195.1 enforcement efforts are increasingly concentrated in Strathcona.

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[11] On Map 7 Granville is depicted as a distinct stroll, as it had been prior to the summer of 1984. At that time the West End nuisance injunction forced West End prostitutes first into the area immediately to the West of Granville street, and then, subsequently to the area immediately to the east (Lowman, 1984, pp. 321-328 and 347-348). Since the areas are contiguous, the traditional Granville street stroll is now effectively part of the Richards-Seymour stroll. We refer to this general area throughout the report as the Richards-Seymour stroll.

[12] Many of the local hotels are also used by prostitutes from Strathcona (and sometimes Mount Pleasant) to turn their tricks -- a number of hotels knowingly offer special ten to twenty dollar short

Our main criterion for counting a person as a prostitute was that they were sitting, standing in, or walking slowly through any one of the three stroll areas in which counts were conducted. We also counted as prostitutes women who were "hitch-hooking" in the Mount Pleasant area. Counts were simplified by the fact that male prostitutes work only in the southern part of the Richards-Seymour stroll (on Richards and Homer south of Davie, and along the sections of Davie and Drake located in between, a commercial area with little other street activity); with the exception of this area the counts only involved female, transsexual, or transvestite prostitutes. We did not try to distinguish transsexual, transvestite and female prostitutes, nor did we try to distinguish youths from adults[13] We counted as customers any male pedestrian stopping to talk to prostitutes or men picking them up in a car. We thus counted three categories of person: female-transsexual-transvestite prostitutes; male prostitutes (i.e. males pesenting themselves as male); and customers -- males in the act of communicating with a prostitute.

We examined prostitute activity throught the day, through the week, and month by month. To examine fluctuations of street activity through the day, we conducted three "day counts" which consisted of twelve counts taken every two hours through a twenty four hour period. Each twenty four hour span began at 6.00 a.m. on a Thursday morning (22nd-23rd July 1987, 5th-6th November 1987, and 4th-5th February 1988).

Similarly, to examine patterns of activity through the week we conducted three sets of counts each day of the week between 10.00 p.m. and 12.00 midnight during the weeks 22-28 June, 20-26 September, and 8-14 November 1987.

1. Reliability of Counts

There is undoubtedly some margin of error in the counts. We did not count as prostitutes women pushing prams or carrying shopping bags in stroll areas. Sometimes we did count women standing at bus stops as prostitutes when they were known to us, or when we would subsequently drive past only to see that a bus had come and gone, but the woman remained. In our 1984 counts we only counted stationary women as working prostitutes (Lowman, 1984, p. 302). One effect of enforcement of the communication law and various street prostitution task forces is that women tend to move around more than they used to. Consequently if mobile women appeared to show interest in the drivers of passing cars by trying to establish eye contact with them, we would count them as prostitutes. Prostitutes also often try to dress distinctively in order to attract business, thus making them easier to identify and count. Several interview subjects told us that they deliberately tried to "look like a prostitute" so that potential tricks would not think they were police decoys (conversely, some women try not to look distinctive in the hope that they will avoid

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stay rates for this purpose (one such hotel owner was convicted in May 1988 for running a common bawdy house).

[13] In the 1984 study we felt reasonably confident in making these distinctions since the person responsible for the head counts of prostitutes was also responsible for the majority of interviews with prostitutes and for observing activity in the various prostitution strolls that existed at that time. Since she got to know the identity of many of the people working the street she was able to distinguish the various categories of prostitutes for the purpose of making the head counts.

police attention). Presumably there is some margin of error in the exercise of all these judgements.. But generally, we felt that the counts become progressively more straightforward as the working women become known to the counter. Only four persons were responsible for the counts conducted between 1985 and 1988 (each person was involved in at least thirty counts).

Despite problems with identification of prostitutes, we feel that the head counts give a fairly reliable indication of fluctuations in the number of prostitutes in the main Vancouver prostitution strolls, because we do have other counts to compare them to – Vancouver Police conducted counts throughout 1987, and these have been made available to us. Table A below compares the counts we conducted between 10.00 p.m. and 12.00 midnight each Thursday with those done by the police during the same evening periods. There were seven months during which the police made more than one such head count; these are used as the basis of the comparison (there were 24 such police counts compared to 28 of our own).

TABLE A
COMPARISON OF RESEARCH TEAM AND POLICE HEAD COUNTS OF PROSTITUTES

	Lowman Counts /			Vice Intelligence Unit Counts		
	Strth.	Ri.-Se.	Mt.Pl.	Strth.	Ri.-Se.	Mt Pl.
Feb.87	5.3	16.85	11.6	7.75	19.0	15.25
Mar.87	5.5	31.0	20.0	5.5	30.0	16.25
May.87	9.5	30.5	10.0	6.3	26.3	11.3
Jul.87	11.2	38.4	6.4	10.0	34.5	8.0
Aug.87	10.3	39.3	8.0	7.5	29.5	7.5
Sep.87	9.0	41.5	10.75	9.0	33.5	8.0
Nov.87	6.5	38.75	5.5	10.0	34.0	6.0
Average	8.18	33.75	10.32	7.97	29.5	10.32
Average Total =		52.25			47.83	

Strth. = Strathcona; Ri.-Se. = Richards-Seymour
Mt.Pl. = Mount Pleasant

The results of this comparison show that the two sets of counts are remarkably consistent given that they were conducted independently of each other. Such results suggest that the counts provide a fairly accurate index of levels of street prostitute activity.

H. STUDY OF TRENDS IN ADVERTISING

Without the complicity of persons running off-street prostitution services (to provide first hand descriptions of profits, numbers of customers, etc.) it is difficult to tell how Bill C-49 has affected the off-street prostitution trade. Interviews with escorts give us some indication of how the off-street trade operates, but they have not allowed us to ascertain changes in the volume of that trade. One relatively accessible measure that may tell us something about the off-street trade is the volume and character of various forms of advertising for sexual services. In this report, we look at advertising trends in three print media: the Vancouver telephone Yellow Pages (escort agency ads), the Vancouver Sun (escort, dating service, and massage service ads), and a local periodical specializing in advertisements for sexual partners (mainly dating ads). This publication is referred to here as "Sex Partner," a fictitious name.

As far as we can tell, most Vancouver escorts are prostitutes in the sense that they readily sell sexual services to patrons, and a woman we interviewed who worked the phone lines at one company said that she formed the strong impression that most of the men who called and were serious in their intention to hire an escort anticipated that sex acts would be among the services available. We interviewed several other street prostitutes who worked for escort agencies, all of whom told us that the agencies were nothing more than fronts for prostitution.

The question remains whether trends in advertising do reflect levels of escort service business, although we suggest subsequently that it is difficult to interpret the sharp increase in the number of advertisements after 1980 as not being at least partly attributable to a substantial growth in Vancouver of this type of prostitution since that time.

In the case of advertisements in the personal columns of newspapers it is difficult to distinguish "commercial" ads, although we know of several working prostitutes who have or still do advertise in the personal columns of various publications, particularly in the periodical that we refer to here as "Sex Partner." We therefore attempted to ascertain the number of prostitutes advertising their services in this publication. We first classified entries by the sexual orientation/characteristics of the person placing the ad (i.e. heterosexual male, heterosexual female, couple, bisexual male, bisexual female, homosexual male, homosexual female, transsexual). Then we noted if the advertiser was searching for "generous" respondents -- an indication, we think, that some pecuniary reward for the provision of sexual services was being sought. We also recorded the number of ads for outcall massage and massage parlors, some of which are known to be providers of commercial sexual services; the problem is that we do necessarily know which ones. As it turned out, there were very few such ads anyway.

In the case of the Vancouver Sun, we were unable to detect personal ads that might have been placed by prostitutes. Having heard that some massage services are fronts for prostitution, we recorded the number of ads placed for massage parlors and outcall massage to see if any noticeable changes occurred after 1985. We simply recorded the total number of advertisements appearing to see if any significant changes in volume after the enactment of Bill C-49 had occurred. Not knowing if "dating services" include dates with prostitutes (although we doubt that they generally did during the time period dealt with here), we also recorded trends in dating service advertisements to see if they fluctuated noticeably in relation to the enactment of Bill C-49. Lastly, we recorded the number of escort services advertising in the Sun to see if monthly fluctuations appeared to be related to the enactment of Bill C-49 (the Yellow Page ads, because they are only published once a year, can only provide information about longer term trends).

Sampling Procedure

In the case of the Vancouver Sun, we counted advertisements appearing in every afternoon edition appearing on the first Friday of each month from 1984 to 1987 (inclusive). Data on escort service ads in the Vancouver Yellow Pages are provided for the period 1965 to 1987. Data from "Sex Partner," a monthly publication, were collected for the period 1985 to 1987 (the only years for which back copies were available).

TABLE B

COMPONENTS OF THE EVALUATION: DATA BASES

CODED AND TRANSCRIBED INTERVIEWS WITH PROSTITUTES AND TRICKS

		# of persons
(1)	Prostitute interviews	45
(2)	Trick interviews	17

INTERVIEWS WITH KEY INFORMANTS

		# of persons
(3)	Structured interviews (transcribed)	
	(a) Police	7
	(b) Crown Attorneys	5
	(c) Judges (none consented to interview)	0
	(d) Defence lawyers	2
	(e) Social workers	6
	(f) MPAG	2
	(g) Courtwatch	1
	(h) POWER	2
	Unstructured interviews:	
	(i) Bar personnel	3
	(j) Pimps	2

MPAG = Mount Pleasant Action Group
POWER = Prostitutes and Other Women for Equal Rights.

STUDY OF CASES

		# of Cases
(4)	Police, Crown and Court information on charge/arrest-release/trial/sentence	
	Tricks (primary sample)	79
	Adult Prostitutes	208
	Youth Prostitutes	54
		341
	Tricks (secondary sample: trick characteristics only recorded)	160

TABLE B (Continued)

STUDY OF NEWSPAPER ARTICLES

		# of articles
(5)	Study of attitudes to C-49 described in Vancouver newspaper articles 1985-7	176

STUDY OF ADVERTISEMENTS FOR SEXUAL SERVICES

		# of editions
(6)	Study of patterns of advertising for sexual services 1984-1987 (monthly in the Vancouver Sun, Province and ****)	36

HEAD COUNTS OF STREET PROSTITUTES AND CUSTOMERS

		# of counts
(7)	Counts of street prostitutes/johns	99

STUDY OF ASP/POWER BAD TRICK SHEETS

		# of incidents
(8)	Study of bad tricks reported by prostitutes	619

III. THE OFFICIAL HISTORY OF S.195.1

As a background to our evaluation of s.195.1 we provide here a short history of the events that led up to the revision of s.195.1 in December 1985, and a review of claims that were made about the "failure" of the first version of that law and the spread of street prostitution in Vancouver. The core of the commonly accepted explanation of the spread of street prostitution in Vancouver is nicely captured in the following statement made by a commentator in Maclean's magazine:

> Prostitution, a desperate and sometimes dangerous business, has experienced unprecedented growth in Canada's cities since a 1978 Supreme Court ruling effectively opened up the streets to the sex trade... Since (the ruling)... prostitutes have become much more visible -- and more numerous -- from Vancouver to Halifax... The effect of the Hutt decision was to make it almost impossible for police to enforce the law against soliciting. (Maclean's 1985, 98:14:40-41)

For the moment, we present this explanation of the spread of street prostitution in Vancouver as if it were a matter of fact simply because, with the exception of the analysis presented by the Fraser Committee (1985) and Vancouver prostitutes' rights groups, there has been virtually no questioning of it by almost any of the public commentators on the subject -- politicians, media commentators, criminal justice system personnel, and lobby groups alike -- over the past ten years.[1]

The "official" history of the events leading up to the revision of the first version of s.195.1 is worth describing in some detail because it is our contention that in order to evaluate the impact of the new law, it is also necessary to evaluate the logic that underlies it. We say this in the belief that if the original logic for the revision of s.195.1 was based on a faulty explanation of why patterns of street prostitution in cities like Vancouver changed in the 1970s, this mistake will have an important bearing on how we interpret the impact of s.195.1, and, if it is judged to be "unsuccessful," on what kind of further revisions to the Criminal Code ought to be made. This point will become particularly relevant when we evaluate the widespread belief that s.195.1 has "failed" because sentences are too "lenient" and that harsher sentences will rid a city like Vancouver of its "street prostitution problem."

Our version of the official history of s.195.1 in Vancouver is based on two key sources which serve as exemplars of the logic that was used by police, the local municipal government, the Provincial Government and anti street prostitution lobby groups to campaign for the revision of the first version of s.195.1. The first is an article published in the Canadian Police Chief entitled "The Dilemma of our Prostitution Laws" written by the Chief Constable of Vancouver shortly after the infamous Hutt decision was rendered (Winterton, 1980). The second is an informational document entitled "Profile on Soliciting" prepared by the Vancouver Police Department for the City Manager and City Council in 1987.

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[1] A separate on-going analysis of 100 years of newspaper news on prostitution in Vancouver establishes that there is an overwhelming consensus in Vancouver newspapers after 1978 that the "street prostitution problem" was "caused" by the failure of the first version of s.195.1 in the courts.

A. "THE DILEMMA OF OUR PROSTITUTION LAWS"

In the article by Chief D.L. Winterton, we see nicely encapsulated the commonly accepted history of the "prostitution problem" in Vancouver. According to this article, street prostitution was "reasonably well under control" in Vancouver up to 1972 (1980, p.5) given what Chief Winterton saw as the satisfactory nature of Vagrancy C[2] as a control device. Both detectives and uniform patrol officers could enforce Vag. C. It was established that a person was a "common" prostitute by warning them that they had been observed practicing prostitution. Subsequently, once a person who had been warned was found in a public place without being able to "give a good account of herself," she could be charged with an offence. In this way the first time offender was protected from prosecution. Vag C was repealed in 1972 because it was a "status" offence -- it criminalized a person's status rather than their behavior (it was, for example, only applicable to women).

The first version of s.195.1[3] (the soliciting law) was enacted to replace Vag. C. To begin with, the soliciting law seemed to Chief Constable Winterton to be adequate to control street prostitution:

> Section 195.1 appeared by its wording to be capable of doing the job required, that is, to give the police and the courts the necessary legal tools to enforce the law effectively and justly. It appeared also that we had the tools to maintain reasonable control of crimes related to prostitution and protect our citizens from the obvious nuisance factors surrounding this type of activity. This was not to be the case. Subsequent interpretation of this Section by the courts in various parts of Canada quickly showed the difficulty that would be experienced in implementing this new legislation (1980, p.5).

In particular, Chief Winterton cited the Hutt, Dudak, and Galiot and Whitter cases as the main impediments to successful law enforcement.

The decision in Hutt[4] resolved a recurring court room semantic debate by determining that the term "soliciting" meant "pressing and persistent" behavior. The decision meant that a prostitute simply by offering her/his services in a public place did not "solicit" since the act of offering sexual services for a fee could not, in itself, be construed as "pressing and persistent" behavior. In an obiter dictum it was also suggested that, under Section 195.1, a car was a private, not a public place. If this was the case undercover officers could no longer use cars for s.195.1 enforcement, but would have to approach street prostitutes on foot. Knowing this, it could be presumed that street prostitutes would only discuss transactions once inside the would-be customer's vehicle, immune from prosecution. To make matters even worse from the perspective of the Vancouver Police, attempts to prosecute customers were rendered useless when the B.C. Court of Appeal -- in opposition to its counterpart in Ontario -- ruled that a man who offers to remunerate a woman for sexual services could not be said to be soliciting for the purpose of prostitution.[5] The final turn of the screw seemed to come in the cases of Galiot and Whitter.[6] Toronto authorities had experienced some success in prosecuting s.195.1 cases in 1978 and 1979 by arguing that prostitutes who approached a number of would-be customers in turn acted in a "pressing and persistent" manner. But in Galiot and Whitter it was ruled that each encounter must be looked at separately; thus each encounter must contain the element of being "pressing and persistent."

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[2] Criminal Code 175(1) up to 1972 read as follows:

> Every one commits a vagrancy who:
>
> (a) ...; (b) ...: (c) being a common prostitute or nightwalker is found in a public place and does not, when required, give a good account of herself; (d) ...; (e) ...;

(2) Every one who commits vagrancy is guilty of an offence punishable on summary conviction.

[3] The first version of s.195.1 read: "Every person who solicits a person in a public place for the purpose of prostitution is guilty of an offence punishable on summary conviction."

[4] R. v. Hutt [1978] 2 S.C.R. 476.

Ruminating on the consequences of these decisions Chief Winterton stated that when faced with the difficulty of the wording of 195.1 he could "... only sympathize with our judges in attempting to apply such ambiguous legislation" (1980, p.5). He thus quite justifiably concluded:

> My request will be a simple one: that the government decide first if soliciting for the purpose of prostitution is a crime, thereby requiring police enforcement efforts, or, conversely, that it is not (1980, p.6).

Despite pressure from local and provincial governments, the Canadian Association of Chiefs of Police and a variety of private lobby groups for the legislature to enact an enforceable law the Federal Government did not act quickly in revising the legislation.

1. The June 1987 Report on Prostitution to the City Council: A "Profile of Soliciting"

Perhaps the most useful document from the perspective of the current evaluation of Criminal Code Section 195.1 is the most recent one available, the 1987 Report of the Chief Constable to City Council entitled "Profile on Soliciting." This report, like Chief Constable Winterton's account in 1980, cited Hutt, Dudak, and Galiot and Whitter as being responsible for the demise of the street soliciting law. We may thus conclude from both these reports that the street prostitution problem was "reasonably well under control" until 1978. This impression is confirmed by a subsequent section of the document on "The Effect of Prostitution on the West End of Vancouver." Here it is suggested that,

> Street prostitution in the West End had been previously confined to a small area on main streets. With the cessation of soliciting enforcement, the numbers gradually increased, with the prostitutes spreading into the side streets and lanes and eventually into most of the residential areas.
> (Profile on Soliciting, 1987, p.2)

The first strategy of City Council to control prostitution in the West End was the installation of traffic barriers to disrupt traffic flows. All this achieved was the displacement of prostitutes to unbarricaded streets.

The effect of this experiment in crime prevention through environmental design (or "situational" crime prevention) is probably best summarized by a Province front

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5. R. v. Dudak (1978), 41 C.C.C. (2d) 31 (B.C.C.A.). The Ontario Supreme Court ruled that the soliciting In R. v. Di Paola and Palatics ((1978) 4 C.R. (3d) 121 (Ont. C.A.)) The Ontario Supreme Court ruled that Section 195.1 applied to prospective customers as well as prostitutes.

6. (1981), 64 C.C.C. (2d) 1 (S.C.C.)

page headline saying, "Prostitute laughs at experiment"[7] accompanied by a picture of a woman sitting on one of the barricades, presumably waiting for a trick.

In 1982 a Municipal by-law was enacted prohibiting street prostitution, but after a year in use and some 650 charges later (but with apparently no reduction in street prostitution) enforcement of the by-law was discontinued when a similar Municipal statute was struck down in Calgary.[8] A number of other attempts were made by the police to control street prostitution in the West End – most notably, a series of task forces (in 1979 and 1981) designed to prosecute prostitutes and tricks under various provisions of the Criminal Code, Motor Vehicle Act and City by-laws. We speculate later that it may have been the effect of these task forces, and not jurisprudence, that moved prostitution further into residential areas of the West End after 1978.

During the period of the alleged spread of street prostitution after 1978, pressure by business and (after 1981) residents' groups for the police to curb the street prostitution trade gradually increased. The 1987 Brief of the Vancouver Police Department to the Law Amendments Committee of the Canadian Association of Chiefs of Police provides a summary of the kinds of complaints received by the Vancouver Police Department from residents in prostitution stroll areas:

> 1) Noise: Conversations and arguments between prostitutes and potential customers, and between prostitutes. This is especially a problem late at night in residential areas.
>
> 2) Traffic: Traffic noise, congestion and possible danger are constant problems as potential customers drive around the streets and lanes
>
> 3) Confrontations: Frustrated residents frequently confront prostitutes in an attempt to persuade them to move away from their homes.
>
> 4) Citizen's accosted: Citizen's, including young people going to and from school, are frequently accosted by prostitutes looking for customers and men looking for a prostitute.
>
> 5) Litter: Evidence of sexual activity in the form of used condoms and tissues are discarded in lanes, parking lots and school grounds. human excrement and urine are also frequently discovered.
>
> 6) Suspicious persons: Persons, regarded by the residents as undesirable, are cruising the area searching for prostitutes to harass or pick up.
>
> 7) Assaults/Fights: Fights frequently occur between prostitutes claiming territory and prostitutes are frequently assaulted by customers.
>
> 8) Thefts from and by prostitutes.

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[7] J. Ferry, Province 18 November 1981.

[8] Westendorp (1983), 2 C.C.C. (3d) 330. Several municipalities across Canada enacted street prostitution by-laws at this time at the behest of the Federal Justice Minister, the report to the City Manager claims, only to have the courts strike them down.

9) Bawdy House: Premises in residential areas being used as bawdy houses create many of the previous problems in areas away from the streets used for soliciting.

10) "Affrontery:" Citizens are affronted and embarrassed when they see persons openly engaging in a criminal offence, "soliciting," immediately outside their homes, schools and businesses.

11) Role Model: Citizens are outraged at the role model presented to school children, when prostitutes, frequently expensively or scantily dressed, parade on the street in residential areas.

It was also during this period that anti street prostitution lobby groups emerged. CROWE (the "Concerned Residents of the West End") was formed in 1981 with the single object of expelling prostitution from the West End of Vancouver. Again the encroachment of prostitution into the West End was attributed by CROWE spokespersons to jurisprudence, particularly the Hutt decision. Such was the case when the founding member of of this organization made a slide presentation to the Fraser Committee's public hearings in Vancouver in January 1984; the presentation gave the impression that prostitution was virtually non-existent in the West End until 1978, with a series of maps depicting its gradual spread from that time until it had engulfed almost the whole of the West End residential district by 1982. Significantly, the presenter did not take up residence in the West End until 1979.

The campaign against the prostitution trade changed gears with the appearance of the "Shame the Johns" in 1984, a group of lobbyists who picketed prostitutes and customers meeting each other on West End streets. Eventually, in July 1984, prostitutes were moved out of the area by a nuisance injunction granted by the Supreme Court of British Columbia.[9] The result was that the ills associated with the trade were simply displaced into the Richards-Seymour Street area and into Mount Pleasant (See Map 6 areas 6 and 8), at which point further demands were made of the police to resolve the problems created by displacement of prostitution into these new locales. From a control perspective, something certainly had been gained -- one of the two new areas, the Richards and Seymour Street stroll, was mainly non-residential. And, unlike the Georgia Street stroll, there are no major hotels located in the immediate vicinity of the stroll area, although there are several restaurants.

There is, nevertheless, some residential land use in the Richards Seymour area. Residents of the apartment block on Helmcken in the heart of the new prostitution stroll soon complained of the same kinds of problems that had been said to occur in the West End. One short lived attempt to respond to these complaints was the erection of night time barricades to try and stem the flow of traffic around the apartment building. This practice was discontinued in November 1986 (almost a year after the enactment of Bill C-49) having been found to be largely ineffective. As of the time of writing (May 1988), the problem persists -- but without much comment in the local newspapers -- as the Richards-Seymour area has become the primary prostitution stroll in Vancouver. The "Profile on Soliciting" notes that the Police Department continually attempts to persuade prostitutes to avoid working near the apartment building.

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[9] For commentary on the likely success of the injunction strategy against appeal see Cassels (1985).

In contrast to the Richards-Seymour location, Mount Pleasant (Appendix 5, Map 7, area 8) is a mainly residential area. According to the "Profile on Soliciting:"

> Prostitutes moved into (Mount Pleasant) immediately following the West End injunction. Initially, they worked the Broadway area but as the numbers increased, they moved north into the residential areas. Again, there was an angry citizen response, as the residents saw their neighborhood deteriorating. The residents of the area of Broadway and Quebec mobilized a "street patrol" which was eventually effective in moving the prostitutes out of the immediate area. The result is that it is rare to find a prostitute working west of Main street.
>
> Broadway, between Main street and Clark Drive, became the working area for street prostitutes. This area is largely commercial on Broadway itself but residential areas and schools lie both immediately north and south of Broadway. The prostitutes wander down the cross streets and use the lanes for pickups.

Only one other area is mentioned in the "Profile on Soliciting," the traditional area of street prostitution in the Downtown East Side and Strathcona. Of this the "Profile of Soliciting" notes:

> Historically, the Downtown East Side has always had street soliciting to some extent. The area is a mixture of commercial, residential and industrial premises. Few, if any, complaints are received from the "Skid Row" area but problems are increasing with the changes occurring in the Strathcona area. Numerous new residential buildings have been recently constructed and there are two schools and several community activity centers.

It was at this time that Bill C-49 was enacted. With the history of "what went wrong" established we next present a description of how s.195.1 has been implemented, and evaluate its impact. Then in Section VII 3 we return to the popular account of why street prostitution had spread in Vancouver, and offer an alternative explanation of the problems that have historically beset prostitution law in Vancouver and still confound police attempts to control the street prostitution trade.

IV. IMPLEMENTATION OF CRIMINAL CODE SECTION 195.1

Areas of Prostitution, 1986-1987

Our analysis of police, Crown and court files indicates that enforcement of s.195.1 has been concentrated in the three principal prostitution strolls in Vancouver. Throughout the report we refer to them as the "Strathcona" stroll (Map 7, areas 4 and 7[1]), the "Richards-Seymour" stroll (Map 7, area 6), and the "Mount Pleasant" stroll (Map 7, area 8). Street prostitution also occurs in the skid road district (area 3, Map 7), but only five charges (1%) included in our overall sample were laid against prostitutes (and none against customers) in this area (Table 2, Appendix 3); "hitch-hooking" also occurs in many outlying districts, though none of them -- as yet -- are thought of as "prostitution strolls."

A. THE INVESTIGATION

In practice in Vancouver, the enforcement of s.195.1 is invariably the responsibility of the Vice Intelligence Unit, since almost all charges (we have heard of only one exception) are laid under sub-section (c) and relate to the communication part of that clause, not to "stopping or attempting to stop any person." The enforcement of s.195.1 thus involves the placing of an undercover police decoy on the street, either in a car posing as a trick or on a street corner posing as a prostitute. The description of investigative techniques presented below is drawn from three sources: a) transcripts of interviews with police personnel (Appendix 1, pp. A1-69) and prostitutes; b) from observations of investigative procedures facilitated by several "ride-alongs" with the Vice Intelligence Unit (the observer travelled with the backup team); and c) from our study of police, court and Crown files. Six police reports (three concerning prostitutes charged, and three concerning tricks) are reproduced in Appendix 8. The police report represents the only evidence available to the prosecution and, since prostitutes rarely take the stand, the only account available to the court of the content of the communication that led to a charge being laid.

1. The Vice Intelligence Unit

In any given week during 1987, seven officers were assigned to s.195.1 enforcement. Thus enforcement has been continuous; Vancouver police, unlike their counterparts in Montreal and Toronto, do not use "sweeps." The s.195.1 detail operates from Monday to Friday, but not on weekends (Table 3, Appendix 3; Figure 14). Three of the officers were detectives, all regular members of the Vice Intelligence Unit. The other four officers, including one policewoman, were police constables who volunteered for a tour of duty with the Vice Unit. They worked on two week rotations so that there was a constant supply of new faces to serve as decoys. A constable might do several tours of duty with the Vice Unit in any given year (especially policewomen, of whom there are only about 50 in the Vancouver Police Department). The seven officers were divided into two teams of three with the seventh member, one of the detectives, free floating to deal with any unforeseen problems that might arise in the course of the investigation and arrest (if there was one). One of the teams was deployed against prostitutes, the other against tricks.[2] During each two week tour of duty members of the two teams would switch, and members of each team (both detectives and constables) would take turns in acting as decoys or working as members of the backup team. Sometimes the policewoman assigned to the squad would also take a turn acting as one of the backup officers for a male decoy posing as a trick when other officers were involved with other duties (such as writing up reports).

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[1] Maps are located in Appendix 5.

Current Manpower:

Customers
-- one undercover policewoman posing as a prostitute;
-- one constable backup/arrest;
-- one detective backup/arrest.

Prostitutes
-- one undercover constable posing as a customer;
-- one constable backup/arrest;
-- one detective backup/arrest.

-- one roving detective.

2. Guidelines for Gathering Evidence: Interpreting the Law

Given the frequent turn-over of constables volunteering for the s.195.1 enforcement detail, the officer in charge of the morality section of the Vice Intelligence Unit produced an orientation manual for officers new to the unit. The "195.1 Orientation Manual for Undercover Personnel" notes that there are three essential elements to establish that a s.195.1 offence has occurred:

1. that there is communication;
2. that the communication concerned sex in return for payment; and
3. that the communication occurred in a public place.

The procedure for gathering evidence is guided by the Sergeant in charge of the s.195.1 team in conjunction with a Crown attorney:

> One Crown counsel has been assigned to oversee 195.1 operations. He does not actually prosecute the cases himself, but he has the overall responsibility for advising police on such things as evidential requirements, and for designing policies for prosecution of cases. We are constantly in

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[2] The only variation in this deployment of officers occurred between January 1986 and October 1986 when two backup teams were used to cover a policewoman posing as a prostitute. Given the amount of violence visited upon prostitutes, police authorities decided that a policewoman should be covered by two cars, one to follow the accused from the scene of the alleged communication, the other to cover the policewoman at all times and pick her up after the accused had driven off. It was decided that since it was already policy that under no circumstances should the policewoman board the would-be trick's vehicle, and since she was armed at all times, she could be protected by the same unit that would subsequently follow the trick after he left the scene of the incident while she returned to her own undercover unit parked nearby (Appendix 1, Policewoman #1, p. A-44, Policewoman #2, p. A-52).

> touch with him, almost weekly, going over recent decisions, and discussing the way we gather evidence. There has not been much change in the policy since 195.1 was revised because almost all the defence arguments have been unsuccessful... One change occurred as a result of a court decision. Up until a year ago, the Vice Squad felt that arresting and detaining prostitutes overnight was in the public interest. This reasoning was upheld in lower court but overturned on appeal[3]... That's really been the only change in our procedure. (Vice Squad Administrator, Appendix 1, p. A-8)

In terms of who first initiates the conversation, the general opinion of police and crown personnel was that it does not matter:

> In terms of the way s.195.1 reads it does not matter who initiates the conversation, or who mentions sex and money first... Our aim is to avoid "entrapping" people in the classic sense of that term. But let's be serious, everybody's got a pretty good idea what the prostitute's doing standing on the street corner, so when you get right down to it, it ought not to be a major issue. (Regional Crown Counsel, Appendix 1, pp. A-71, A-72; also see Crown Counsel #1, p. A-79; Crown Counsel #3, pp. A94-95; and Family Court Crown, p. A-102)

> There has been a great deal of debate in court about the legal importance of who initiates the conversation about the sexual act and who initiates the conversation about its price. We've successfully prosecuted cases where the officer has finally found himself in a position where he has to mention one or the other. We want to ensure that words are not being put in the suspect's mouth. But we haven't really had a problem prosecuting the cases where the officer had to initiate some aspect of the conversation about sex and money. (Crown Counsel #3, Appendix 1, p. A-95)

During the first sixteen months of s.195.1 enforcement the general rule with both customers and prostitutes was that officers tried to avoid any mention of either the sex act or the fee to be paid for it prior to the suspect's introduction of both subjects to the conversation.[4] Talking of tricks one policewoman noted:

> Sometimes it was tricky getting them to tell you what they wanted and how much they were willing to pay for it, but you just have to persist. If it doesn't sound like they're willing to say what they want or how much they want to pay ... you say, "Once you decide, come back and talk to me." You have to improvise a lot. It pretty much got so that you could tell right away if it was going to be easy or hard to get the information out of the suspect. (Policewoman #2, Appendix 1, p. A-51)

The general practice in the case of tricks is that the decoy attempts to maneuver the suspect into introducing both the service and the price into the conversation

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[3] See Section IV D 7.

[4] In the case of prostitutes, the first two sample police reports reproduced in Appendix 8 indicate that the prostitute mentioned both sex and money first. Similarly, in the first two sample cases involving tricks, the accused introduced both sex and payment into the discussion. In the third example it appears that the policewoman introduced payment to the conversation be saying, "what do you want to spend" although the accused was the first to actually mention a dollar amount; in any event, if the conversation is recorded accurately it is fairly clear that there can be little doubt what the accused had in mind when he initially approached the decoy.

(Policewoman #1, Appendix 1, p. A-40 and Policewoman #1, p.51). But it became increasingly obvious to police and prosecutors that as prostitutes learned more about the nature of the law and police enforcement tactics, it became more and more difficult to meet the this requirement (Vice Squad Administrator, Appendix 1, p. A-1). Consequently, in practice the interpretation of s.195.1 has gradually become broader. Clearly the concern is to avoid a possible entrapment defence that might consist of arguing that the accused had no intention of purchasing or selling sexual services until the undercover officer suggested that they do so (Regional Crown Counsel, Appendix 1, p. A-71). Thus, in the case of prostitutes, the s.195.1 orientation manual distributed to neophytes advises:

> (T)he suspect may be unwilling to mention sex and money. If so, play along and attempt to have the suspect mention both. If you have reasonable grounds to believe that the suspect is a working prostitute, after some communication has occurred which establishes that fact, you may mention either a sum of money or what (sexual services) you want.[5]

In talking about this change, one of the vice detectives explained:

> Basically, we identify a girl we believe to be a prostitute -- there should be some indication that she is a prostitute, either by recognition, by experience, by where they're hanging out, by what they look like, by their eye contact with you, or whatever. You have to have a reason to believe that she's working the streets. We pull up to her, and its best that the female start the conversation, but there is no hard and fast rule. For the first eight months that I was up here, we would try to get the suspect to initiate the mention of the sex act and the price. If we couldn't get both the act and the price, even when it was obvious that the communication was for the purpose of prostitution, we thought it best to let her go, to proceed only with the best cases ... About 4 or 5 months ago, after meetings with the Crown counsel here in Vancouver, the Crown decided that we could mention either the act or the price first (but not both) ... In other words, under the first system she could say, "I'll give you a blow job but you've got to tell me how much," and we had to get her to also mention the price. Under the new system we could reply. We could say up front, "How much?" so long as we had established what we're talking about -- prostitution. Or, alternatively, I could say, "Well I was thinking about a blow job, how much is that?" If she, at that point, is unwilling to say a price, then it's best not to proceed, because you would be giving both components of the communication. (Detective #1, Appendix 1, p. A-16)

Because prostitutes are almost never called by defence lawyers to testify at a s.195.1 trial, the issue of the accuracy of police reports in terms of who says what and when is virtually never an issue in court.

It has also been established that "communication" does not have to be spoken:

> First communication had to be oral. Now we've won cases where the prostitute pointed to things (such as the speedometer to communicate a price) or mimed actions indicating sexual acts. These kinds of things have been deemed to be communication. (Detective #2, Appendix 1, p. A-29)

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5. See, for example, the conversation between the decoy and a prostitute recorded in the third sample police report reproduced in Appendix 8.

A second officer explained:

> The hookers play all kinds of games. Holding up four fingers. And we say, "That's $40 is it?" And they nod their head. And they poke their finger in a hole and all that this sort of stuff. As long as you understand what they are communicating to you, you can proceed with a charge. But you have to be prepared to go into court and say this is what the communication was, this is what I understood it to mean... Obviously if the judge feels there is a likelihood the suspect meant something else, the charge is going to get tossed out. (Detective #1, Appendix 1, p. A-16)

Another area of concern in gathering evidence relates to the terms used to describe sexual acts. Judicial notice is taken of a variety terms. The s.195.1 orientation manual outlined the following street terms that were accepted as having a sexual connotation:

Sexual Intercourse:
- Lay
- Straight
- Flatbacker

Fellatio:
- BJ
- French
- Blow Job
- Sixty nine
- Head

Other:
- Handjob (masturbation)
- Half and half (fellatio and sexual intercourse)

The manual advises that if the officer is in doubt as to what the accused means by any term or phrase, he/she should ask the accused what they mean.

In other instances, prostitutes make veiled references to sex acts and prices without using any of the street vernacular recognized as such in court. Nevertheless, in some such cases, convictions have still been obtained:

> (T)he other day I had a girl say, "$40 for drinks, $60 for dinner and $80 for drinks and dinner." ... I said to her later, "How much was regular sex?" and she says, "$60," I said, "Well OK, that's regular sex for $60 then?" She didn't say yes or no but, "Well, for twenty dollars more you get dinner and drinks." We're going ahead with this charge. In one case we got a conviction when the girl said, "You can get one slice of pizza for $20, you can get a half pizza for $40 and you can get the whole pizza for $60." (Detective #1, Appendix 1, pp. A16-17)

Generally, then, the task presented the undercover officer is a relatively straightforward one. In the case of tricks, once the suspect mentions a sex act and a price -- and police seem to have little difficulty in maneuvering them into doing so -- he is susceptible to being charged. The whole conversation usually takes about half a minute (Policewoman #1, Appendix 1, p. A-43; Policewoman #2, p. A-52).

In the case of prostitutes the procedure is a little more difficult because they are more likely to persist in their attempts to discover decoys; some of them have learned to avoid any mention of either sex and money altogether. The investigation of prostitutes thus becomes something of a cat and mouse game as decoys try to con prostitutes, and prostitutes try to sidestep them. Interviews with prostitutes and police indicate that a certain degree of mutual respect sometimes develops between them. Nevertheless, the majority of prostitutes fall easy prey to police decoys. As one officer noted:

> Generally we have very few difficulties using 195.1; it's fairly easy. The greatest problems are presented by street-wise prostitutes -- they are pretty well untouchable because they go to such lengths to establish that the customer isn't a potential police officer. But they are the minority of street prostitutes out there. (Vice Squad Administrator, Appendix 1, p. A-3).

From what we can tell, when it comes to "tricking" prostitutes the police do an efficient job (see Section IV A 4 for further discussion of prostitutes counter measures). As one of the representatives of POWER (Prostitutes and Other Women for Equal Rights) sardonically remarked:

> Some of these guys must have taken acting lessons, because some of them are really, really good. Women who have been out there for a long, long time have been fooled. These are guys who come out in their own private cars with their kid's car seat in the back, the car all messy.

3. The Investigation Procedure

a) Tricks

During the period of our research the routine investigation procedure in the case of tricks was for the policewoman to drive into one of the prostitution strolls and park an undercover car close to where she intended to stand. She would then position herself on a street corner so as to be visible to the back up team (the backup team was in radio contact with the policewoman at all times, so that, in the event that they could not see her clearly, they could get her to move). She would then wait for a would-be trick to proposition her:

> The best idea was for them to initiate the conversation itself. It's pretty difficult standing on the street corner to not make eye contact with people who are driving by because most fellows who are out looking to pick up a hooker, that's how they initiate contact. They go around the corner the first time, and then a second time and a third time until they finally stop to talk to you. I would approach a car and let them say, "Hello" or whatever. (Policewoman #2, Appendix 1, p. A-51)

If the necessary evidence was forthcoming, the police woman would use a prearranged signal (she might, for example, scratch her head) to indicate to the backup team that she was about to brush the man off (she would tell him that he was too drunk, or that he was not prepared to pay enough, or perhaps, if all else failed, that she thought he was a police officer).[6] The backup unit would then follow the accused's car and stop it several blocks away, while the policewoman returned to her car to write up notes, or returned to the police station to make out a report. In the unlikely event that the backup team was unable to follow the accused (by virtue of being blocked by traffic, for example) the policewoman would try to follow the accused's car and make his whereabouts known to the backup car over the radio (Policewoman #2, Appendix 1, pp. A53-54). In the event that the accused decided to take flight, backup teams were instructed to avoid any kind of high speed chase (since they would already have the accused's license plate number, and could subsequently trace him if necessary).

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[6] In the three sample police reports reproduced in Appendix 8 one decoy told the trick that he was "too loaded, another decoy told a trick that she was simply "not interested," and the third, after being offered $30 replied, "that's not nearly enough, sorry."

Once the accused's car had been stopped, he would be approached and asked to show his driver's license. He would be informed that the officers had reason to believe that he had communicated for the purpose of engaging in prostitution. The accused was informed of his rights, searched, charged and, usually, asked to sit in the rear of the backup car while the officers checked his identification. Depending on the result of the information provided by a CPIC check the accused was then released on a notice to appear in court, or taken to the police station for further investigation. If not released at the site of the offence, the accused would subsequently be released on an undertaking to appear in court, or would be detained for a bail hearing (during the period of our study most of the accused were either released on an appearance notice or detained for a bail hearing).

b) Prostitutes

In the case of prostitutes, the back up team (in an unmarked police car) and the decoy (in a rental car) would travel separately into one of the prostitution stroll areas and complete a quick reconnaissance to see how many people were working the street and to identify which one of them to target for an investigation. The backup team would then take up a position somewhere close to the target, and inform the decoy officer of their exact location so that he could drive past once he had picked up the suspect (if the prostitute would not get into the car, the decoy would normally leave and select another target). The backup car would wait for the decoy to pass by, and would then follow him out of the stroll area (in this way the identity of the decoy was not revealed to any on-looking prostitutes). After the decoy felt he had sufficient evidence to lay a charge, he would signal the backup team, usually by pressing the brake peddle three times (softly enough not to be noticed by the passenger), at which point the backup unit would turn on its portable red flashing light to signal the decoy car to stop. After the decoy car had been stopped the backup officers would approach the two occupants and separate them. The driver would then be asked for his driver's license as if he was unknown to the investigating officers (the decoy was treated as if he too was an offender). In the mean time, the accused prostitute would be placed in the backup car. The decoy would depart leaving the backup team to apprise the accused of her rights and lay the communicating charge. One officer described the procedure in the following way:

> (W)e would pull the decoy car over and ... would take turns approaching the decoy and the prostitute. One of us would approach the driver (the decoy) and get his driver's license and make it appear to be a normal traffic stop. You'd write something in your notebook and carry on some inane conversation with him ... and then you'd let him go. He would drive off. The other member of the arrest team would take the hooker back to his car and question her there. The hooker would always ask, "Why aren't you charging him?" And I would say, because he's Mr. Joe Citizen and he's got a driver's license with his picture and his address in it; he can prove who he is and

> where he lives. He's going to be in court, he's got a wife and kids to think about. He doesn't want somebody to come looking for him. Whereas, you don't have any I.D. on you; you've no way of proving who you are, where you live, or that you will attend court. Sorry, you go to jail. (Policewoman #2, Appendix 1, p. A-54)

Prostitutes often do not carry identification, either to avoid theft from bad tricks or to make it more difficult for police to identify them (police are not empowered to require persons accused of summary conviction offences to provide fingerprints and mugshots). The police nevertheless did (and still do) routinely photograph prostitutes;[7] they carry a large pad of plain white paper in the backup vehicle on which they write the prostitute's name, the date of the charge, and a case identity number, and then ask her to pose holding the pad of paper below her face. A flash camera carried in the car provides an unofficial mugshot. While not compelled to pose, the prostitute is not usually informed that she has the right to refuse, and it seems that most of them readily oblige the police request for a photograph. When we asked if women ever refused to be photographed, one officer replied:

> I can only remember a couple of instances. It depends on what you tell them. Basically, my policy is, I just say, "Hold this up (the pad of paper), I'll take a picture for the vice files." I don't ask them and I don't say they have to; I don't force them to. If they say no, I have at times just held it up in front of them and just taken their picture. On some occasions I've just taken their picture without their name in front because, well, this is a debatable point, but they can say, "I don't have to let you take my picture" and I say, "OK, but you can't stop me." (Detective #1, Appendix 1, p. A-19)

While the police obviously do create a comprehensive intelligence system through the filing of photographs of prostitutes charged (as well as the considerable number they have taken over the past five or six years[8]) it seems that the photos are not often used to attempt to check the identity of prostitutes (Detective #1, Appendix 1, pp. A19-20), and are probably of limited utility anyway given the ease with which a person's physical appearance can be altered, although they do probably facilitate the identification of prostitutes in court. Over the issue of identification, police officers constantly lament their inability, because s.195.1 is a summary conviction offence, to fingerprint suspects.

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[7] Police do not photograph tricks arguing that the main purpose of such records is to facilitate the identification of offenders; since tricks almost always carry a drivers license with them, it is not necessary to photograph them since their identity is only rarely an issue (Detective #1, Appendix 1, p. A-19). It is worth noting in passing that photographs of tricks might help the identification of more of the bad tricks who are reported by prostitutes, although it is unlikely that the courts would look favourably upon the photographing of summary conviction offenders for this reason. The courts have, to date, accepted police photographing of prostitutes as reasonable given the problems that police experience identifying them. The s.195.1 orientation manual notes that while the police have no authority to take photographs -- "such that force must not be used" -- the courts have held that "photographing is such a minor infringement of the accused's rights as to be inconsequential" (Crown memorandum, June 1987).

[8] Vancouver police routinely photographed prostitutes prior to the enactment of Bill C-49. Of the prostitutes we interviewed in 1984, half had been photographed by police in circumstances not related to a criminal charge -- usually while they were standing on the street (Lowman, 1984, pp. 203-204, 682). Mount Pleasant Prostitution Task Force personnel also regularly photographed women working on Broadway (Policewoman #2, Appendix 1, p. A-50).

(1) Prostitute Accounts of the Investigation Process

Prostitute accounts of the investigation procedure reinforce our overall impression of s.195.1 enforcement as being relatively straightforward from the point of view of the police. There were few complaints that police had acted inappropriately in a legal sense, although the law itself is obviously the object of considerable ire, and prostitutes feel that they are playing against a stacked deck to the extent that the police account of the conversation is almost never subject to their challenge. The accounts of police procedures given by prostitutes are generally consistent with the accounts given by police:

> On the corner of ***** and *****, there are two phone booths. It's a corner where a lot of ladies stand to do their business. This gentleman came up to me and said so and so, and about five minutes later, an unmarked car with a woman officer and a man, came up and said, "You are under arrest under s.195.1. (Female prostitute)
>
> I spoke with the man in question, an undercover cop. Once the conversation was over -- whether it was that I solicited him or he solicited me is open to debate -- I then noticed flashing lights behind us. We were pulled over, two officers came over to the car and told me that I was under arrest for a prostitution offence. (Female prostitute)
>
> I was stupid. I was at a point where I needed a drink of beer bad -- I was hungover. I wasn't even dressed properly. I stuck my thumb out and he stopped. He asked "How much for a blow?" I said, "How much are you spending?" He says "I've got $50.00, what do I get?" I said, "That will get you a blow job." After the conversation went down his car was stopped and I got charged. I was outside the car talking to him through the window. All night I was asking guys who stopped, "Are you a cop?", but this one, I was getting so fed up, I needed a drink bad, so I went with him. (Female prostitute)
>
> The trick picked me up. We went exactly 1 1/2 blocks before we saw the cherries flashing through the back window. And I'm looking at him and saying "You're a cop." (Female prostitute)
>
> They used an undercover officer as a trick. He made the first offer, but in court he said it was me that made the first offer." (Female prostitute)
>
> They knew everything I said. It must have been taped or something, because they just read all the conversation back to me. There was a car parked in the lot right across from the corner of **** and **** where I was standing, and I think the other guys were waiting right across there. (Female prostitute)
>
> The guy that I was with signalled to the other cops and they pulled up and opened the door and showed their I.D. and said, "Get out, we're cops, you're under arrest." They always play like the cop's a trick. But how else are they going to bust you? They must think we're totally stupid. Then they throw you in the car and take you downtown. (Female prostitute)
>
> When I was standing on the corner at **** and **** a gentleman drove up to me and started smiling and looking at me. I said, "Hi, how are you doing?" I had just finished talking to a girlfriend and was waiting for

> another girlfriend to go to supper. I told him that the ladies usually charge certain prices for certain things... Unfortunately I got busted because of that. The word got twisted around, and of course they're presented in a certain way in court. But who is going to believe a lady who works the street? (Female prostitute)

One prostitute who we interviewed had been charged under s.195.1 no less than eleven times. In almost each case, she told us, the police strategy had been much the same:

> I would speak with the man in question. Usually we would drive a couple of blocks -- once it was six or seven blocks. Once the encounter was over, two officers would pull us over, approach the car, flash their badges, remove me from the car, and tell me I was under arrest for suspicion of prostitution. I was arrested probably eight times out of eleven, until they started losing cases because they were detaining people. (Female prostitute)

Prostitute accounts of police procedures once they had been charged are again generally consistent with police accounts:

> The first time they photographed me and took vital statistics. They never took me to jail, they just wrote me out a promise to appear right there on the street. (Female prostitute)
>
> They kept me overnight every time I got busted. They took a photograph every time, but no fingerprints. (Female prostitute)
>
> They searched me and photographed me and gave me a court date. They treated me O.K. even though I was using a phoney name. When they found out one guy just said, "How come you lied to me?" (Female prostitute)
>
> I was searched, detained, and held overnight. But they didn't do anything that I considered to be illegal. (Female prostitute)
>
> "*(Did they photograph you?)* Yes. Every time. I was detained overnight on the first one. After the second one I was sent to Oakalla. *(Did they search you?)* Yes, they always search you. (*Did they fingerprint you?*) No. (Female prostitute)
>
> They did it properly. They took my picture but they didn't fingerprint me. They made me hold the pad of paper up with a number on it and photographed me. (Female prostitute)

4. Prostitute and Customer Counter Measures

Because of the difficulties created by s.195.1 enforcement in Vancouver, prostitutes and customers began to employ a variety of counter measures to try and identify police decoys. The police officers we interviewed indicated that prostitutes were much more likely to be "cagey" than tricks since they were much more at risk of being charged -- a trick only infrequently "communicates" with prostitutes whereas a prostitute might have several communications with tricks on any given night. Our interviews with tricks also indicate that while the majority of them realized that it is illegal for a prostitute to "communicate" with a customer, the majority of them did not realize that their own communication with prostitutes was also illegal. Of course, we don't know how representative our small sample is of tricks more generally.

The s.195.1 orientation manual lists five techniques that are employed by prostitutes to detect police officers (customer counter measures are not mentioned):

> 1) They initially ask potential clients if they are police officers.[9]
>
> 2) They ask potential clients to expose themselves before being prepared to continue a conversation.
>
> 3) They ask to touch the genitals of the potential client before being prepared to continue a conversation.
>
> 4) They ask the potential client to touch their breast before being prepared to continue a conversation.
>
> 5) They tell the potential customer that they must not mention sex or money, that he must initiate mention of both.

Of 39 prostitutes we interviewed who worked the street and answered the question on counter measures, every one reported using at least one of the above tactics to avoid being charged: twenty one of them said that they asked to touch potential clients or asked them to expose themselves; twelve (30.8%) avoided mentioning to would-be tricks either the service or the price of the service; and seven reported asking potential customers if they were police officers (since this was a multiple response question some prostitutes reported taking more than one measure -- Table 111, Appendix 4).

Many prostitutes and customers seem to believe that an undercover police decoy must admit to being a police officer when asked if that is what they are. Often the two parties to the transaction end up asking each other the same question:

> They think I'm a cop. They ask me if I am. I ask them too. I say, "Are you a cop?" and they go, "No, are you a cop?." And I say, "Of course, not, I'm not a cop. Do I look like one?" They say "Well you can't be sure nowadays." (Female prostitute)
>
> Usually after I ask them if they're a police officer, I'd say 9 out of ten ask me if I'm a police officer. (Female prostitute)
>
> They ask if I'm a cop and I say "No, are you a cop?"

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[9] One recurring comment in police reports is that prostitutes, and sometimes tricks, ask decoys if they are police officers. The decoy always say "no" since nothing in Canadian law prevents them from lying. S.195.1 enforcement (and much other proactive police work) would be almost impossible if police officers were obliged to reveal their identities when asked to do so. Monique Layton (1975, p.196; 1979) in her research on prostitution in 1975 reported that prostitutes at that time similarly believed that when asked to do so, an undercover police officer had to reveal his identity.

And, on a lighter note, one respondent utilized a strategy that if not necessarily successful might at least give rise to a chuckle:

> If they ask if I'm a cop, I stick out my chest and say, "This is a bust." (Transsexual prostitute)

After enquiring whether the potential date is a police officer (if he/she bothers to ask at all), the prostitute may require the date to either touch her, expose himself, or let her touch him (sometimes tricks ask the prostitute to expose her/himself, but one has to wonder if the motivation for such a request relates entirely to screening out police decoys). Most of our respondents believed that a police officer would not ordinarily go along with this kind of request (otherwise they obviously would not employ it as a screening technique). The following short answers were typical:

> I ask them to feel my teat or if they want to feel my cunt... or I say "Let me feel your cock and see how horny you are." (Female prostitute)
>
> I ask if I can see their dick. (Female prostitute)
>
> I ask them to touch my breast or something. It's embarrassing, but it has to be done. (Female prostitute)
>
> I usually get them to feel me up and then me to feel them up and if it's mutual, they can't arrest me. (Female prostitute)

However, some prostitutes believe that such tactics will not ensure successful detection of decoys. As one female prostitute noted of these various strategies:

> That's about all you really can do and even cops can get away with that. They can show you their private parts and still get away with arresting you.

Several prostitutes said that tricks know that they aren't police officers simply because of their appearance -- such characteristics as age,[10] diminutive stature, "race," and dress -- or their general demeanor, so that counter measures were really not necessary:

> When they see the way I'm standing with my boobs hanging out they know I'm a hooker. I don't think undercover police women would be dressed like that. That's why I want to look like a whore when I'm out there. (Transsexual prostitute)

Other prostitutes said that they dated regulars so that both parties were assured of avoiding police decoys.

Only twelve respondents (30.8%) realized, correctly, that as long as they did not mention money or services that they should theoretically be immune from arrest:

> I don't mention services or quote prices. I make them tell me what they want to do. (Female prostitute)

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[10] Fear of prosecution would seem to create an extra incentive for some tricks to patronize the youngest looking prostitutes since they are the least likely to be police decoys.

> I just don't talk. I make them tell me what they want, what they want to spend, and where we're going. I don't mention price, I don't mention what I'm doing in his car. (Female prostitute)

One of the detectives we interviewed mentioned a series of other strategies that he had encountered while working as a decoy:

> A lot of (prostitutes) just use their gut feelings. If you look like a cop they'll challenge you. A lot of them will search your car visually -- look at the keys to see if there are police tags on them, or they'll open the glove box of the car to see if there is anything in it. They'll search under the seats, and things like that. We've even had girls frisk guys down to see if they're carrying guns or handcuffs... Another tactic is that they ask you to drive around the block, go through back alleys and drive all over Hell's half acre and watch to see if anybody's following you. (Detective #2, Appendix 1, p. A-31)

When it came to describing the measures tricks employ to safeguard against undercover police operatives, interviews with prostitutes and police officers indicated that when tricks do take measures to avoid being charged, they usually do not go beyond asking potential prostitutes if they are police officers. Table 110 (Appendix 4) indicates the kind of trick counter measures reported by prostitutes. 18 women (60%) and 3 males (33.3%) said that some tricks asked them if they were police officers. 9 women (30%) and 2 males (22.2%) mentioned that tricks would sometimes ask to touch the prostitute's breast (or crotch, in the case of males) or ask her to expose herself. When asked what proportion of tricks take these or any other measures to ensure that they aren't talking to a police officer, the majority of prostitutes reported that only a minority of tricks did anything at all.[11]

As one detective noted:

> Very seldom do (tricks) try anything. A fair number will say, "Are you a cop?" The officer says, "No." -- that's as far as it goes. A lot of guys drive around and around, but rather than looking for policewomen, I think they're just checking out the girls.

Nevertheless, another officer was surprised at the fact that some tricks were well aware of the risks they were taking:

> We used to put body packs on the (female decoy) -- we don't do that too often now -- and I was really, really shocked at the conversations with johns. Many of them are aware that there are policewomen out there. They'll ask the policewoman if she's a cop. Some of them are well aware of the fact that they can't say the act and price and they'll try and get the girl to say it. They sound exactly like we sound when we go out there. It's really surprising to me because most of these tricks have never been charged before... I have no idea where they get their information about the requirements of the law. (Detective #2, Appendix 1, p. A-32)

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[11] We asked our respondents to estimate the proportion of their tricks who took these measures. A hand tabulation indicates that our respondents estimated that 39% of tricks took any kind of measure at all. Estimates varied from zero to 90%; seven respondents gave estimates greater than 50%, four said 50% (n=28). Only one respondent (a transsexual) said that none of her tricks took any measures -- she assured us that her risque clothing was sufficient to allay any fears that they might have.

While it seems that many tricks do attempt to watch out for decoys, the two policewomen who we interviewed gave the impression that the failure rate in successfully obtaining the required evidence was minimal. As one of them remarked:

> To me it doesn't seem like s.195.1 is a difficult law to enforce. Being a policewoman trying to get the evidence from men is easy -- it's very few guys who stop that I don't get the evidence from. Maybe, say, 2 or 3 a week. I will try to bargain with them and they'll say, "No, forget it; I don't want to." and drive away without me being able to get the evidence. (Policewoman #1, Appendix 1, p. A-44)

The typical comments of the customers we interviewed confirm the impression that if tricks are aware that they are infringing s.195.1, their attempts to evade law enforcers are rarely sophisticated:

> *(What are the laws relating to prostitution?)* I don't really know the laws this way. *(What effect do the present laws have on the way you contact a prostitute?)* I've had no problems. Nobody has bothered me. I don't think I'm doing anything wrong. *(Has the risk of being charged with s.195.1 influenced the way you contact prostitutes?)* Can I be charged with that? *(Yes, you can be charged with picking up a prostitute)* I didn't know that. *(Will this knowledge change the way you pick up a prostitute?)* Probably not, but I guess I will have to be more careful. (Male trick)

> *(What are the present laws relating to prostitution?)* You can be harassed for picking one up, but I don't think you can be charged with an offence. *(What effect do the present laws have on the way you contact prostitutes?)* They have a great deal effect on prostitutes because they are being harassed. You have to be really careful about what you're doing and how you pick prostitutes up. (Male trick)

> *(What are the present laws relating to prostitution?)* I don't know the name of it. I know that they do have an anti-prostitution law ... I believe its against soliciting. Both ways too -- against a client or a prostitute. *(What effect do the present laws have on the way you contact prostitutes?)* I tend to be a little more cautious, I check out the situation beforehand and while approaching them. I always ask, "Are you a cop?" *(Has the risk of being charged with a prostitution offence influenced the way you contact prostitutes?)* It does make me more careful. (Male trick)

> *(What are the present laws relating to prostitution?)* I don't know. I don't think prostitutes can solicit on the streets. You as a citizen can't block the streets while you're talking to a prostitute, or something like that. *(What effect do the present laws have on the way you contact prostitutes?)* It's kind of scary picking prostitutes up. You don't want to get caught. After they're in the car, it doesn't matter. As soon as she's in the car and we're gone, I don't worry about anything. It's just the initial pick up that's the problem. It's scary -- especially because the public exposure if you get caught could be quite grim. *(Male trick)*

> *(What are the present laws relating to prostitution?)* The present law says you cannot proposition a girl because you can get in trouble as much as they can. But it's not big time trouble anyway. Prostitution is little time stuff. *(What effect do the present laws have on the way you contact prostitutes?)* None -- I've been too busy lately. (Male trick)
>
> *(What are the present laws relating to prostitution?)* You cannot solicit in a public place. *(What effect do the present laws have on the way that you contact prostitutes?)* Just recently there were three girls killed. You really don't want to drive downtown and start picking girls up -- I imagine every rooftop would have a video camera ... As to phoning escort agencies, I'm sure that the police are monitoring them. *(Has the risk of being charged influenced the way you contact prostitutes?)* Definitely. *(How do you go about contacting a prostitute on the street?)* Usually you just drive up beside them. They're standing there. They want to be able to identify you, to see if you're a cop. You roll down the window and start talking and the next thing you know, they're in the car. You have to be very careful of the questions they ask, because you don't know if they're policewomen, and they don't know if you're a policeman, and it's all very awkward. There's really no spontaneity to it any more because of the games you have to play. (Male trick)

a) Police Reactions to Screening Procedures

As to whether police officers ever do comply with requests to expose themselves or touch the suspect's genitals or breasts, most crown and police respondents thought that it was most unlikely. In the case of investigations involving tricks it is unlikely that any female police officer would ever be in a position to comply with such a request (and we doubt that they ever would anyway). The decoy is always in full view of the backup team and never enters the suspect's vehicle -- it is unlikely that a trick would ask a prostitute to touch him or expose herself until she was inside his car. Counter measures taken by tricks are thus not likely to be particularly effective. If they ask the female decoy if she is a police officer obviously she is going to reply that she is not.[12] If he gets a woman into the car to the point where he can ask to touch her or ask her to expose herself, she is sure not to be a police officer anyway since policewomen never enter the suspect's vehicle.

In the case of the investigation of prostitutes we asked our police and Crown respondents whether they thought that male decoys would expose themselves or fondle a prostitute when requested to do so. Without exception these respondents suggested that they thought it highly unlikely that many police officers would comply with such a request:

> Most (prostitutes) know that a policeman cannot touch them so they ask potential customers to touch their breast. It's a policy on our part not to. There's no law saying a policeman can't touch someone who asks to be touched. But our policy is designed to prevent disrepute to the criminal justice system itself. (Detective #1, Appendix 1, p. A-31)

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[12] One policewoman estimated that about half the tricks asked her if she was a police officer, but that it did not help them very much:

Last night we had one, and we did the whole deal and then just as he's about to pull away, he goes, "Oh, are you a cop?" I said, "No, are you?" He says, "No!" and then he leaves; he's happy. What an idiot! (Policewoman #1, Appendix 1, p. A-42).

> Prostitutes know that a policeman cannot touch their breast even if they ask him to. Another thing that prostitutes do is ask the potential customer to unzip his fly and expose himself. (When this happens) you try to change the subject or you give some reason why you wouldn't want to do that in a particular location; some place else might be OK, but not out here in front of everybody. So we try to con them. (Detective #2, Appendix 1, p. A-31)

Nevertheless, one prosecutor noted:

> I have set up a case where an officer did oblige. It hasn't gone to trial, so I don't know what's going to happen. I believe the conversation went roughly as follows: "Let me touch your crotch so I know you're not a police officer." The officer said, "Go ahead." and the police report notes that she did touch him. (Crown Counsel #3, Appendix 1, p. A-96)

Our interviews with prostitutes did not bring to light any instances of prostitutes accusing police officers of exposing themselves or complying with the request to touch the prostitute's breasts or genitals. If these complaints were common, it seems safe to assume that prostitutes would not employ these strategies to try and ferret out decoys. Nevertheless, a s.195.1 unit officer was accused in a December 1987 Bad Trick Sheet of getting "freebies" by complying with prostitute counter measures. If this is the case, the Vancouver Police Department would certainly not look favourably on such activity.

While it is obvious from the above comments that many prostitutes do try to avoid police decoys, it would seem that in the majority of cases they are not particularly successful in doing so. In a two week period in February 1988 during which the s.195.1 unit operated, 87% of the prostitutes who were approached by decoys were charged.

Generally, one is left with the impression that s.195.1 enforcement for the most part is, to use an old and tired cliche, not unlike shooting fish in a barrel. There are some "untouchables" but they represent only a small percentage of the women on the street. That certain women do seem to be able to thwart decoy efforts does suggest, however, that if sentences for s.195.1 were to become harsher than they currently are, the number of "untouchables" might increase dramatically. They might also increase as prostitutes become more familiar with police methods.

5. Report to Crown Counsel

Usually the only evidence forwarded by the police to Crown Counsel for preparation of the prosecution takes the form of a report prepared by the decoy and arresting officers (see Appendix 8 for sample police reports).

> This is an area where we don't have any problems in terms of the police reports. The police are well versed in how to investigate these cases. In almost every case, the report comes in and there's no need for any further follow up -- i.e. the reports are satisfactory. They describe a set of circumstances which are almost always sufficient, in my opinion, to justify laying a charge. (Family Court Crown, Appendix 1, p. A-101)

The Police Report contains the decoy's description of his/her conversation with the accused, and the backup team's description of its apprehension and processing of that person. The reports are usually fairly succinct (anywhere between one and three pages in length) and relatively straightforward. The s.195.1 orientation manual, in describing the procedure for preparing reports, provides the following checklist of items to mention in order to assist the prosecutor in presenting the case and avoiding well known pitfalls:

-- If there is a problem with identifying the accused, ensure the report records who can ID the accused (presumably the arresting officer) if the female decoy is unsure, due to poor visibility and the short conversation, note this in the report;

-- Record what names and ID the accused produced;

-- Note on the report the dates of previous convictions and charges (available from VIU files);

-- If the soliciting (sic) occurred in a residential area, note this in the report to Crown counsel with a brief description of the scene.

6. Appearance Notices and the Decision to Arrest

Because the procedures used by police to process persons charged under s.195.1 have led to several acquittals, the rules of procedure as specified in the Criminal Code for detaining or releasing the accused are worth describing in some detail.

The procedure for handling an accused charged with a summary conviction offence is laid out in sections 450 and 451 of the Criminal Code. Section 450 (2)(c) states that a peace officer shall not arrest a person without a warrant for an offence punishable on summary conviction in any case where:

1) he has reasonable grounds to believe that the public interest, having regard to all circumstances including the need to
    (i) establish the identity of the person,
    (ii) secure or preserve evidence of or relating to the offence, or
    (iii) prevent the continuation or repetition of the offence or the commission of another offence,
may be satisfied without arresting the person, and
(a) he has no reasonable grounds to believe that, if he does not so arrest the person, the person will fail to attend court in order to be dealt with according to law.

Where a peace officer does not arrest a person for one of the above reasons, section 451 of the Code states that he or she may issue an "appearance notice" requiring the accused to appear in court on a particular date.

Sections 452 through 454 specify the various release options for those persons who are arrested. In the case of a summary conviction offence, if a person is arrested the officer in charge shall, as soon as practicable:

(a) release the person with the intention of compelling his appearance by way of a summons,
(b) release the person upon his giving his promise to appear,

> (c) release the person on his entering into a recognizance before the officer in charge without sureties in such amount not exceeding five hundred dollars as the officer in charge directs, but without deposit of money or other valuable security... (Criminal Code s.453)

unless the officer has "reasonable and probable grounds" that it is necessary in the public interest to establish the identity of a person, secure evidence relating to the offence, prevent the continuation or repetition of the offence, or if the accused is likely to fail to appear in court. This type of release is referred to as a "promise to appear" or an "undertaking to appear."

If the peace officer or officer in charge does not release an accused on an undertaking to appear, they must be taken in front of a justice of the peace without reasonable delay (C.C.C. s.454 provides the exact details). If the police believe that the accused will repeat the offence, or will not appear in court, he or she is detained for a court appearance so that a prosecutor can attempt to "show cause," i.e. demonstrate why the person should be detained. Under these circumstances a "judicial interim release" (bail) may be ordered with a variety of conditions attached to it, or the accused may be remanded in custody awaiting trial (see generally C.C.C. s.457). If an accused "fails to appear" in court when required to do so by an appearance notice, a promise to appear, or an interim judicial release, a bench warrant for the arrest of the accused is issued.

In outlining how police should proceed after a person has been charged under s.195.1 the orientation manual, as of November 1987, recommended the following procedure:

> 1) The arresting officer advises the accused that he/she is under investigation regarding an s.195.1 offence and gives the accused a Charter 10(b) warning and an official warning;
>
> 2) the accused is interviewed to determine the relevant facts;
>
> 3) the accused is arrested under Section 450(1)(c) and warned appropriately, or issued an appearance notice under section 451(c).

The s.195.1 orientation manual carefully notes that the decision to arrest rather than issue an appearance notice should be made in the same manner as in any other case, i.e. in accordance with s.450(2). One significant change in the processing of s.195.1 offenders occurred as a result of the acquittal of several prostitutes (and the withdrawal of charges against several more) on the grounds that they were unreasonably detained according to the provisions of C.C.C. s.450 thereby causing an infringement of s.9 of the Charter of Rights which prohibits arbitrary arrest and detention.[13]

The main gist of the defence argument in this case was that the police were not following the criteria for detention and release set out in the Criminal Code (criteria which relate to both the offender and the offence) because, acting on advice from the Crown, they had adopted a blanket policy of arrest and overnight detention of s.195.1 offenders for a bail hearing. The policy was put into effect in May 1986 in the belief that the public interest was not being served by releasing the accused prior to their appearance in court. Internal police department memoranda describing the

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13. The pivotal case was Pithart (57 CR (3d) 144 (BCCA) Legatt, CCJ, 6 April 1987).

policy noted that street prostitution had not abated since the introduction of the new law some five months before and that public pressure to do something about the trade still persisted. One memo (introduced by defence in the Pithart case) noted, in one place, that the policy should be applied to all s.195.1 offenders. Later, the same memo noted that it should be applied to all repeat offenders. In practice, the policy was applied to prostitutes much more than it was tricks (see Section IV A 6a). In reflecting on the reasons for introducing this policy, one police officer observed:

> Because of the repetitive nature of the prostitute's offence, we were interpreting Section 450(2) of the Criminal Code to say that because of the nuisance caused by street prostitutes and because of the likelihood of a person's repeating this offence, that, in consideration of public interest, we would remove them from the street by holding them overnight.

One Crown Attorney noted more graphically:

> When you're dealing with a prostitute you don't have to be Einstein to figure out that a person is going to end up right back out on the street corner. If that's the case what was the point of enforcing the law against them in the first place? Within an hour and a half, or so, you're right back where you started. So you keep that kind of person in custody (i.e. we're not talking about the first time offender here) and apply in the morning for bail conditions which might include a curfew, area restrictions or whatever. (Regional Crown Counsel, Appendix 1, p. A-72)

When it comes to exactly what is meant by the wording,

> "a peace officer shall not arrest a person without a warrant ... in any case where ... he has probable grounds to believe that the public interest *having regard to all the circumstances* including the need to ... i) establish the identity of the person (ii) secure or preserve evidence relating to the offence, or (iii) prevent the continuation or repetition of the offence ... may be satisfied without so arresting the person" (emphasis added),

clearly there is a great deal of interpretive latitude. It is this clause that led the Crown and police to feel justified in the decision to arrest all persons accused under s.195.1.

The advantages of such a policy from a control perspective was that it enabled police to physically remove the prostitute and customer from the street. Further, if an accused is released on an appearance notice or a promise to appear, they are simply required to show up in court to answer to their charges. In contrast, the detention of an accused for a remand hearing also promised to produce a series of other court ordered conditions that the offender be required to keep as well as undertaking to appear in court. Thus at bail hearings prosecutors could request that prostitutes be restricted from certain areas as a condition of their release. And, if nothing else, the policy effectively imposed a one day jail sentence on all s.195.1 offenders (but it did so before anybody had actually been found guilty of the offence).

The courts interpreted s.450(2) in a different fashion. The issue in terms of whether to detain an offender should not, the court reasoned, be based on a generic judgement about whether s.195.1 offenders are likely to repeat the offence. The relevant issue is whether a particular accused is likely to repeat the offence or not show up in court. If one is dealing with a first time offender, whether prostitute or john, there is no good reason to assume that the offence will be repeated or that the accused will fail to appear. When it comes to tricks generically there are very few known repeat offenders (as of December 31 1987 there were only 11) and still over 45% of the charges laid against prostitutes in Vancouver are against persons who have never been charged before.

The practice now is that offenders are usually given appearance notices unless i) problems of identification arise, in which case the suspect is detained until the police are satisfied that the person's identity has been correctly established (as noted earlier, many prostitutes do not carry identification and use aliases or other prostitutes names when charged; some use stolen ID)[14] at which point the accused is released on a promise to appear; ii) where there is a breach of court order (such as a bail or probation condition) involved in the commission of the s.195.1 offence; iii) where there is an outstanding bench warrant resulting from a fail to appear (or some other charge); and (iv) when a juvenile is charged (see Section IV 6 b).

One effect of this policy was that the processing of s.195.1 cases became less time consuming after April 1987 than it had been under the policy of blanket arrest:

> At first we thought it was going to be a negative thing. Here was one more concession to these people who don't get much of a penalty to begin with. We felt that the most severe penalty was that they had to stay in custody overnight... But we think now that, in some respects, it was a positive thing (because) we're wasting a lot less of our time now that the whole process is more efficient. (Detective #1, Appendix 1, p. A-18)

Perhaps the increase in the number of charges laid in 1987 over 1986[15] (see Section IV-B for a full description of the number of charges laid) is at least partly a reflection of this change.

a) Release or Arrest: Differential Treatment of Prostitutes and Tricks

Since our sample of cases only covers charges laid up to spring 1987 it has not been possible to determine exactly how persons charged under s.195.1 in the aftermath of the Pithart decision have been dealt with.[16] We focus in particular on the period between May 1986 and February 1987 when the policy of arresting all s.195.1 offenders obtained. This analysis reveals that not all persons charged were arrested during that period, and that prostitutes were much more likely to be arrested than tricks.

Table 18a[17] depicts the number of accused persons in our sample of trick and prostitutes cases who, after being charged with an s.195.1 offence, were detained for a bail hearing the following day as opposed to being released on the street on an appearance notice (very few of the accused were released on an undertaking to appear). Of the prostitutes charged for the first time 69.3% were held for a bail hearing as compared to 25.4% of the tricks. Table 18b relates to the charges in our sample laid during the period when the blanket arrest policy obtained (May 1986 to March 1987). During this period, 80.5% of first time offender prostitutes were held overnight, while only 39.1% of tricks (all of whom were first time offenders) were held;[18] sampled prostitutes were thus twice as likely as tricks to be held for a bail hearing during the period of the policy of blanket arrest. It is not clear, given the arrest policy, why any s.195.1 offenders were released on appearance notices, although, as we noted above, the memorandum describing the policy at one point seemed to require arrest of all offenders, while at another point it seemed to require that all *repeat* offenders be arrested. Even then, Table 18b indicates that of 31 repeat prostitute offenders charged between May 1986 and March 1987, six (19.3%) were released on appearance notices (there were no trick repeat offenders at this time). Table 18c indicates that even when one controls for the prior criminal record of first time s.195.1 offenders with no other criminal record (whether prostitutes or tricks) were just as likely to be detained as those who did have one or more previous convictions. Table 19 shows the number of persons released and detained following a bail hearing.

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[14] 40% of the adult prostitutes in our sample of cases had one or more known aliases recorded in their police files (Table 2).

[15] In 1986 there were 760 charges; in 1987 there were 1420.

[16] Interviews with Vice Squad personnel suggest that the overwhelming majority of persons currently charged are released on appearance notices.

[17] Tables relating to cases (Tables 1 to 60) are contained in Appendix 3.

b) Juveniles

When discovering a juvenile working the street the policy of the VIU is to charge and arrest whenever possible. The s.195.1 orientation manual requests that juveniles be investigated by a Vice Squad detective who will "a) interview the juvenile to determine his/her associates, use of spotters, connections with a pimp, and general living conditions and home environment; b) visit the juvenile's home to interview parents, guardians, or associates to confirm the juvenile's story and to gather evidence; and c) submit a follow up report to Crown counsel."[19]

When a juvenile is charged if he/she is unknown to the police they are usually taken to the Ministry of Social Services and Housing "Emergency Services" office to find out who their legal guardian is, to ascertain whether M.S.S.H. personnel have any record of them, and to see if any action under the Family and Child Services Act is warranted. Subsequently, the accused would either be taken to the local Youth Detention Center or, in a few instances, be returned to their home after being issued an undertaking to appear. In cases where police already know the youth he/she would normally be taken to the Youth Detention Center to await a hearing in Family Court the following day (or, if on a Friday night, the following Monday). Table 15 indicates that only 13.5% of our sample of youths charged under s.195.1 were released on appearance notices, while 63.5% were held overnight, and a further 19.2% were held more than one day for a bail hearing (see also Appendix 1, Vice Squad Administrator, p.A-6; Detective #1, p. A-21; Family Court Crown, p. A-102). Clearly, then, juveniles are much less likely under the current regime of s.195.1

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[18] During the period May 1986 to December 1986, 18 of the 30 tricks (60%) we sampled were held overnight; however, all twenty of the tricks comprising our sample for the period January-March 1987 were released on an appearance notice.

[19] The policy changed in 1988 after the enactment of Criminal Code s.195(4). Now, if a youth is seen working the street he/she is surveilled in an effort to apprehend any adult who may communicate with them. If that strategy is unsuccessful (we have no idea how long such surveillance is continued) the youth is approached by an undercover officer acting as a trick in an attempt to gain sufficient evidence to lay a s.195.1 charge. If the police do not succeed in laying a charge, they then proceed in the way described in the s.195.1 orientation manual quoted above. A youth is not allowed to leave with a potential trick under any circumstances.

enforcement to be released on an appearance notice than are adults. As one officer explained:

> My personal philosophy is that I don't release any juvenile on an appearance notice back onto the streets. If they're young they go to Willingdon (*Youth Detention Center*) or home or to a group home or wherever -- back to their legal guardian. If they're older, sixteen or seventeen, and have been on the street on their own for awhile, I will take them either to Willingdon where they stay the night or to ... (Emergency Services) to see if the Ministry (of Social Services and Housing) will take them. I'll release them there on an appearance notice. That way at least the legal guardian is aware of what the situation is. They can do whatever. If they turn around and kick them out on the street right away, that's their business. (Detective #1, Appendix 1, p. A-22; see also Detective #2, p. A-35)
>
> If there is no parent or other responsible adult I believe (the police) feel that it's important to detain the youth overnight so that they can be brought into Family Court where the issue of who is responsible for them can be resolved. The fear is that failure to take those steps will result in the youth simply going back out onto the streets and prostituting herself. Because a youth is more vulnerable than an adult, society has the additional responsibility of protecting youths who are putting themselves in apparently dangerous situations. (Family Court Crown, Appendix 1, p. A-103)

7. Conditions of Judicial Interim Release

Given the discrepancy in the treatment of tricks and prostitutes in Vancouver up to April 1987 (see Section IV-6-a) a much greater amount of control -- in the form of court ordered conditions of interim release -- was exercised over persons charged with selling sex than persons charged as purchasers, simply because the purchasers were more likely to be released on an appearance notice. An appearance notice simply requires one to refrain from reoffending and appear in court at an appointed time. As we have already seen, the advantage of having an accused appear in court is that further release conditions can be imposed upon them.

Of 89 sampled prostitutes not previously convicted under s.195.1, the most frequently imposed condition of release was an "area restriction," an order that the accused stay out of a certain court defined area -- usually the prostitution stroll in which they were charged. An area restriction was imposed in 52.3% of cases where a bail hearing was held (Table 20), and in 60% of cases involving offenders with one previous conviction. A cash bail was required in 17% of the sample cases of prostitutes not previously convicted of s.195.1, and curfews in 14.8% of them. The imposition of release conditions was most extensive in the case of youths charged under s.195.1. Of 41 youths appearing in court, area restrictions and residence restrictions (conditions requiring the youth to reside at a certain address) were imposed on 66% of them, and curfews on 24.4% of them. Only 19 (24.1%) tricks were held overnight, and much less was required of them than prostitutes in terms of the court restrictions imposed. Area restrictions were imposed in 6 cases and a curfew and a cash surety in only one (Table 20).

The differential imposition of area restrictions reflects differences in the philosophical approaches of various judges to dealing with s.195.1 offenders. Some will impose area restrictions, others will not. We return to this issue in the discussion of probation conditions below, and in Section V A 3b, an examination of the impact of area restrictions on the street prostitution trade. The areas covered by the restrictions are shown in Table 22. For the moment, it is worth noting in passing that very few of the restrictions during this period related to the Strathcona prostitution stroll.

a) Number of Detention Orders

Two youths were detained following their bail hearings (Table 19), both of whom had been previously convicted under s.195.1. In the case of prostitutes, 7 persons without previous s.195.1 convictions were detained after appearing in court for a bail hearing; the other eight who were detained had been previously convicted at least once. Overall, of 208 adult prostitute s.195.1 cases in our sample, in only 7.2% of them was the accused detained following a bail hearing. None of the tricks were detained.

8. Other Charges Laid at the Time of Arrest

While it does not appear from our sample that many other charges are laid concurrently with s.195.1 charges, we suspect that this reflects the fact that there is only a small number of repeat offenders in our sample (Table 14); 94.4% of the sampled youth prostitute, 71.2% of the adult prostitute and 100% of the trick charges involved first time s.195.1 offenders; we suspect that if one were to examine 1988 cases there would be considerably more charges for breaches of court orders of one kind and another (especially breach of probation) than in our sample. Table 5 indicates that a number of breach charges were laid against the prostitutes in our sample (in 13 out of 262 cases) as a result of being charged under s.195.1. There were only two other concurrent charges laid -- both of them involved drug offences.

9. Bail Breaches and Failing to Appear

Information about bail breaches was recorded in Crown and court files. Table 21 shows that there were no breach charges laid against tricks. Of 122 adult prostitutes released on bail, 106 (87%) successfully met their bail conditions; 24 breach charges were laid against the remaining 16 of them. In the case of youths we know that bail breach charges are rarely laid (Family Court Crown, Appendix 1, pp. A105-106).

Table 22 depicts the number of area restrictions that were imposed once an accused had been returned to court following a bail breach.

Bench warrants for "failure to appear" in court were issued at least once in 20.2% of the 208 sampled cases involving adult prostitutes. Table 25 indicates that a total of 49 "fail to appear" charges involving 42 adult prostitutes were laid. It should be remembered that these figures only relate to finished cases; the true percentage of cases where a defendent failed to appear is probably much higher since outstanding charges where bench warrants had been issued but not exercised are excluded from these figures.[20]

In the case of youths, there was a total of eleven "fails to appear" by 10 defendants (18.5%). In contrast, there was only one failure to appear recorded in the 79 s.195.1 sample cases involving tricks.

B. PATTERNS OF s.195.1 ENFORCEMENT

1. Temporal Patterns: Long Term Trends

In 1986 there was a total of 760 s.195.1 charges laid against prostitutes and tricks. In 1987 there were 1420 charges, an increase of 86.8%. Figure 1[21] depicts the number of charges laid each month in these two years. A variety of factors have probably influenced the rate at which charges are laid, not the least of which is the number of prostitutes visible on the street -- the correspondence between the number of charges and levels of street prostitution as measured by head counts (Figure 3) is striking. Presumably, as the visibility of street prostitution increases so does pressure on the police department from various small, but effective lobby groups to step up the campaign against it. However, given that a constant manpower was assigned to s.195.1 enforcement throughout this period, one would expect the number of charges to have remained fairly constant. More important in influencing the number of charges laid has been the Pithart decision (see Section IV D 7 below), which ended the time consuming practice of detaining s.195.1 offenders rather than releasing them on appearance notices. As we have seen, this change made it possible to prosecute more offenders on any given night. Thus the irony of the Pithart decision is that while it upheld the rights of s.195.1 offenders according to one interpretation of the Criminal Code, it probably resulted in more of them being apprehended. Also, our newspaper analysis indicates that pressure from lobby groups in residential areas -- particularly Mount Pleasant -- was greatest in 1986, although it appears that complaints from Strathcona residents increased in the latter half of 1987, partly because of increasing levels of street prostitution in that area following the success of the Task Force in reducing levels of street prostitution in Mount Pleasant.

It is possible that other factors related to the administration of s.195.1 enforcement have also affected the charge rate. The increase of charges in 1987 corresponds with changes in personnel assigned to the s.195.1 unit. A new administrator may have brought different expectations of productivity to the unit -- one such change may have occurred in the decision to aggressively pursue youth prostitutes so that the number charged in 1987 considerably out paced the number charged in 1986. Figure 2 depicts the number of youths charged from January 1986 to August 1987. Only 29 charges were laid against youths in 1986, but by the end of August 1987 an additional 85 charges had been laid, an increase of almost 200%. We cannot, of course, rule out the idea that some of this change can be attributed to an increase in the number of youths working the street during 1987.

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[20] By way of comparison a 1974 study of a sample (n=12,698) of Vancouver criminal cases of all types found that fail to appear charges were laid in 12.9% of cases where the defendant was released at some point prior to trial (Magid, 1974, Table D-23, quoted in Rossmo, 1987, p. 56).

[21] Figures are located in Appendix 9.

2. Short Term Trends -- s.195.1 Enforcement Through the Week

Our sample of cases suggests (Figure 14), and our interviews confirmed that the Vice Squad enforces s.195.1 only on weekdays. Prostitutes and tricks can meet on Vancouver streets with impunity on Saturdays and Sundays and, with the exception of a couple of weekends, have been able to throughout the period since s.195.1 was revised. The question is whether this enforcement pattern has occasioned any readjustment of prostitute and trick activity. We return to this question in the discussion of the effects of s.195.1 on the prostitution trade in Vancouver (Section V).

Table 4 indicates that by far the greatest proportion of charges (77.2%) are laid between 6.00 p.m. and 1.00 a.m..

3. Ratio of Prostitutes to Tricks Charged: The Issue of Equal Treatment

The most obvious feature of the statistics on s.195.1 enforcement is the considerable difference in the rate at which prostitutes were charged compared to tricks; Tables 55 and 56 indicate that through 1986 and 1987 the rate was approximately three to one. All of the criminal justice system personnel who we interviewed gave much the same explanation for the difference:

> The main reason for the discrepancy is quite simply that it takes much longer to process a charge against a customer than a prostitute. When we put a female decoy out on the street, she may stand there for an hour or much more before we get a hit. She's in competition with, maybe, 50 other prostitutes on the street. The same problem simply does not occur when we enforce the law against prostitutes. We're providing the opportunity for the prostitute to commit an offence which she commits on an on-going basis -- and probably 50% of the time, we're successful...
>
> A second problem is the number of decoys we have available. We have a limited number of female officers. Also, there is a limit to the amount of work a decoy can handle -- one can get overwhelmed by the quantity of evidence. Trying to remember the details of conversations, trying to remember what the accused looked like; you can only handle so many cases in an evening. Probably, two or a maximum of three in one shift would really be as many as one could expect a decoy to reasonably handle. (Vice Squad Administrator, Appendix 1, p. A-2; see also pp. A-70, A-80-81)

According to this explanation it appears that the Vancouver police put the same manpower into enforcing s.195.1 against customers as they do against prostitutes, but the results -- because the female decoy posing as a prostitute plays a reactive role while the male officer posing as a trick plays a proactive role -- are not equivalent.

While this explanation of the different rates at which prostitutes and customers are charged indicates that the police and Crown are well aware of the likely negative reactions that such a difference could produce,[22] it has been difficult for us to reach a clear conclusion regarding the exact reasons why the discrepancy does exist. Much of our information would seem to contradict the proposition that it takes much longer to catch and process tricks than it does prostitutes. No matter how one computes the time it takes to process the two types of offenders, it does not seem possible that the difference is sufficient to account for the ratio of three prostitutes prosecuted to every one customer in Vancouver since 1985 (Tables 55 and 56) for the following reasons:

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[22] See, in Regional Crown Counsel, Appendix 1, p. A-70.

1. Although the prostitute decoy has to wait to be approached by the trick, the policewomen we interviewed claimed that it usually did not take very long to be propositioned:

> I would get dropped off and usually within anywhere from 2 minutes to 20 minutes somebody would stop, a conversation would ensue and the arrest would be made. ....One time I had just parked my car and was walking towards the corner I was going to stand on and this fellow stopped me as I crossed the lane and asked if I was working. It was just a matter of five minutes that I had to stand their on busy nights. Other nights, it was not so quick. I remember standing freezing one night for about 20, 25 minutes and one detective drove up and said, "Let's quit." I said, "No, go away. I'm not leaving until we get one." Within 10 or 15 minutes somebody had stopped. I didn't usually have to wait long. (Policewoman #2, Appendix 1, p. A-53, A-59)
>
> This two weeks I've found that it's been the worst two weeks I've worked on Vice. There were other times when I didn't even have to park my car and there would be somebody coming on to me. I'd be trying to cross the street to get to ... where I planned to stand and guys would solicit me as I stood waiting to cross the road. So we're talking 5 to 10 minutes, tops, to get a pick up. (Policewoman #1, Appendix 1, p. A-41)

It may be that the experience of our respondents is not typical of other female decoys. Nevertheless, they worked a total of 14 weeks in 1986, i.e. between them they accounted for over 25% of the time put in by female decoys that year. One other female officer who was not interviewed but was working at the time of one of our ride-alongs with the s.195.1 unit also indicated that it did not take long for her to get propositioned (and in the case of the two occasions that we watched her operate, it took no more than ten minutes).

2. Our sample of cases indicates that female decoys do not operate in the Seymour-Richards stroll because, our police informants suggested, of the effect of the density of prostitutes in that area on enforcement activity -- there is sufficient competition that the decoy might have to wait hours to be propositioned (see Section IV B 5). The decoys have almost always operated in the two less populous strolls (Strathcona and Mount Pleasant) where the prostitutes are more dispersed (Table 2 shows that only 5.2% of the tricks prosecuted up to June 1987 were charged in the Seymour-Richards stroll); in Strathcona and Mount Pleasant it does not take as long to be propositioned by a trick as it does in the Downtown area.

3. As far as we can tell, prostitutes, once they have been charged, often take longer to process than tricks because of identification problems. Police are far more likely to have to spend more time with a prostitute than with a trick prior to releasing them because they are more likely to have to investigate the suspect's identity.

4. Our data suggest that between May 1986 and April 1987 (the time of the Pithart decision) the policy of arresting and detaining persons charged with s.195.1 was not

applied evenly; Table 20 indicates that a much larger proportion of prostitutes were detained overnight for a hearing than were tricks during the period of the arrest in all circumstances policy. It would seem that a prostitute who was detained would take longer to process than a trick released on an appearance notice.

5. When a charge involves a youth prostitute the time taken to process the case, because it often involves a trip to Emergency Services and then to the Youth Detention Center, must take an unusually long time. Since ten per cent of charges against prostitutes involve juveniles this must also increase the overall average time it takes to process prostitutes as compared to customers (Tables 55 and 60).

6. It is apparent that the two investigation teams do not necessarily devote all their energy to either tricks or prostitutes on any given evening. The Vice Squad Administrator we interviewed noted that there is a "limit to the amount of work a decoy can handle." (Appendix 1, p. A-2). In the case of the prostitute arrest team this does not pose problems because the three male members take turns working as the decoy. If they lay six charges, each person might be responsible for testifying in two cases resulting from each night's work. But in the case of the trick team, only the woman can act as the decoy. The result is that after a couple of charges are laid the trick team might turn to charging prostitutes. Both policewomen we interviewed noted that they would sometimes work as one of the backups for an undercover policeman posing as a trick, and several prostitutes we interviewed noted that one of the backup team members had been a woman. It thus seems that the amount of manpower devoted to tricks and prostitutes is not actually the same given the expectation that a given officer should not act as a decoy for more than two or three charges each night.

The explanation of the three-to-one ratio of charges against prostitutes and tricks would not, then, seem to be explicable simply in terms of the reactive role of the female decoy and the different productivity of two teams of three persons deployed against tricks and prostitutes. Perhaps the initial perception of the difficulty of tricking customers compared to prostitutes during the first phases of s.195.1 enforcement (when police were trying to operate against tricks in the Seymour-Richards area, and when they used two backup units for trick investigations) has colored expectations of the productivity of different investigation units and serves as something of a self-fulfilling prophecy so that the investigation team is satisfied with a much lower rate of charges against customers than against prostitutes on any given night. It would thus seem that, even if "equal enforcement" is measured in terms of manpower allocated, the expected productivity of the female decoy means that in practice more time is devoted to the investigation of prostitutes than tricks.

It should be noted that without a much more extensive period observing the s.195.1 unit in action we cannot draw any certain conclusions about why the difference between the charge rates of prostitutes and tricks persists.

In reflecting on these observations, a Vice Intelligence Unit administrator thought that the small number of female officers who could be used as decoys was probably the most important factor limiting the capability of the Police Department in laying more cases against tricks. He also noted that because s.195.1 enforcement is often complaint generated, since most complaints are made about prostitutes in particular locations, not tricks (i.e. the prostitute is the most visible nuisance), there is a tendency to lay more charges against prostitutes.

Whatever the reason may be for the disparity in the rate of charging prostitutes and tricks, the question still remains as to whether the measurement of equality of enforcement should be in terms of manpower allocated, or whether it should be measured in terms of the number of charges that are laid.

4. Ratio of Female to Male Prostitutes Charged

Table 6 shows the gender of the accused. In the case of adults, transsexuals and transvetites are distinguished from males who present themselves as males on the street. These data indicate that male prostitutes (as opposed to transsexual or transvestite prostitutes) are charged at a much lower rate than would be predicted from our street counts. Of 262 charges in our sample, only 8 (3%) were against male prostitutes. Our head counts taken between 10.00 p.m. and 12.00 midnight indicate, however, that at least 10% of street prostitutes are males (excluding transsexuals and transvestites).

Since male police officers very rarely pose as prostitutes, the customers of male prostitutes are virtually never prosecuted.

5. Geographic Patterns

Tables 2, C and D give various breakdowns of the geography of s.195.1 enforcement in Vancouver since January 1986. Two distinct patterns are revealed by these statistics:

1. When it comes to investigation of tricks, it is clear from both the available statistics and interviews with police personnel that s.195.1 is rarely enforced against customers in the Richards-Seymour stroll (Area 6, Map 7[23]), the most heavily and densely populated prostitution stroll in Vancouver. Table 2 shows that only 5.2% of charges laid between January 1986 and April 1987 (the period of charges included in our study of cases)[24] occurred in this area. This pattern of enforcement is explained by police as reflecting the difficulty experienced by female police decoys working in such a confined area amid a very high density of prostitutes -- the competition is so great that decoys have to wait a long time to be propositioned by a trick. Rather than waste time, the police put female decoys out in the other two areas only. The result of this managerial decision is that there is a class dimension to the prosecution of tricks. Since the Richards-Seymour stroll tends to be the area of the highest priced prostitutes, men who can afford to pay those prices (or who can afford the much more expensive option of patronizing an escort service so that they do not have to break the law at all) remain, by virtue of their ability to pay higher prices for sexual services, largely exempt from prosecution. The use of the Blishen Index (Blishen et. al. 1987) to characterize the socio-economic status of the men prosecuted in Vancouver under s.195.1 (Table 9) indicates that they are predominantly on the lower half of this socio-economic scale. While we have not had time to complete a full analysis of this information, it is also apparent that if one were to map the home residences of tricks against census measures of socio-economic status, the tricks prosecuted under s.195.1 come disproportionately from the lower socio-economic status areas of greater Vancouver (i.e. they come from east Vancouver and the outlying municipalities to the east and south, and only

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[23] Maps are located in Appendix 5.

[24] These figures relate to our secondary sample of tricks.

occasionally from the higher socio-economic neighborhoods of the city (such as, Kerrisdale, Kitsilano, Marpole and Shaughnessy) or the more prestigious municipalities located on the north shore of Burrard Inlet, North and West Vancouver (Table 11). Very few of the prosecuted tricks come from the socio-economically mixed and populous West End of Vancouver -- the location of one of Vancouver's busiest prostitution strolls until 1984 -- mainly, we suspect, since the Richards-Seymour stroll is located just to the east of the West End high-rise area.

2. The enforcement of s.195.1 has concentrated sequentially on the two prostitution strolls located in residential areas (Map 7, areas 7 and 8). In February 1987 the one thousandth s.195.1 charge was laid. Of the charges laid up to that time, 535 (53%) had been laid in Mount Pleasant, 302 (30%) in the Richards Seymour area, and 163 (16%) in Strathcona (Table 59, Table C). If we compare these percentages to the relative nightly populations of the strolls as measured by the prostitute head counts conducted in 1986 we find that the s.195.1 enforcement effort was most zealous in Mount Pleasant:

TABLE C

RELATIONSHIP OF NUMBER OF CHARGES TO POPULATION OF STROLL (as Measured by Head Counts Jan. 1986 to Feb 1987)[25]

Stroll	% of Chrgs.	Mean Head Count	% of Total Count
Strathcona	16%	3.0	12.5%
Mount Pleasant	53%	9.3	38.75%
Richards-Seymour	31%	11.7	48.75%

In contrast, between March and December 1987 a further 1180 charges were laid of which 292 (24.7%) were in Mount Pleasant, 350 (29.6%) in the Richards-Seymour area, and 538 (45.6%) in Strathcona (Table D). When these ratios are compared to the average nightly prostitute populations in the three strolls we see that in 1987, the main s.195.1 enforcement effort switched to Strathcona as the Mount Pleasant Prostitution Task Force (perhaps aided by the differential effect of s.195.1 enforcement -- see Section IV F 3 for discussion) managed to significantly reduce the number of women working in that area.

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[25] A comparison of the percentage of charges in each area with the percentage of head counts yielded a chi-square value of 6.71 (df=2.0, p=.05).

TABLE D

RELATIONSHIP OF NUMBER OF CHARGES TO POPULATION OF STROLL (as Measured by Head Counts Mar. 1987 to Dec. 1987)[26]

Stroll	% of Chrgs.	Mean Head Count	% of Total Count
Strathcona	45.6%	7.8	15.2%
Mount Pleasant	24.7%	10.9	21.3%
Richards-Seymour	29.7%	32.5	63.5%

These findings clearly show that there is considerable variation in the deployment of resources against street prostitution. In 1986, prostitutes and tricks in Mount Pleasant were by far the most likely to be prosecuted. In 1987, police efforts shifted to Strathcona. And given that the average number of prostitutes working in the Richards-Seymour area appears to have increased by nearly threefold since the first six months of s.195.1 enforcement according to our head counts, the relative likelihood of a prostitute being prosecuted in that area has dropped considerably[27] (it is the one area where enforcement has remained fairly constant throughout 1986 and 1987 -- much of the increase in the overall rate of laying charges in 1987 can be attributed to the stepped up effort in Strathcona).

When asked whether there was any attempt to enforce s.195.1 in one area and not in others, both police and Crown respondents suggested that enforcement priorities are guided mainly by the volume of complaints about street prostitution from the three main areas in which it occurs. As one officer explained:

> If we have a number of complaints -- about prostitutes around a school in a certain area, for example -- then we'll move in on that area. if there's a certain period when school's in, let's say, we'll try and work during that time. Other than that, we work wherever and whenever we want.
> (*So there's no attempt to lay off one area to try and push people into it?*)
> Yes. There's been requests from superiors to easy on the girls, for example, west of Main Street in the skids. Patrol has been trying to control the problem around the residential areas in Strathcona and told the girls, "Look, if you've got to work, go west of Main Street..." So patrol guys get in the neck if the girls move to where they're asked to move and then we go and scoop them up. ... I can't remember ever hearing a complaint because of a girl working west of Main..." (Detective #1, Appendix 1, 23)
>
> Recently (*Fall 1987*), we have had a lot of complaints from Strathcona. So our enforcement in Strathcona has increased dramatically compared with the other two areas. Whereas a year ago the big problem was Mount Pleasant (our arrests in Mount Pleasant accounted for 50% to 60% of the

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[26] A comparison of the percentage of charges in each area with the percentage of head counts yielded a chi-square value of 27.7 (df=2.0, p=.01)

[27] Of 45 charges laid against the prostitutes who we interviewed during the course of this study, 26.6% were laid against prostitutes working in the Richards-Seymour area, yet 62.5% of them worked in that area (some worked more than one area -- see Section V B 4b(2)).

> total at that time) now the proportion had dropped -- mainly because there aren't the number of prostitutes working in Mount Pleasant since the Task Force began in May 1987. Now Strathcona is accounting for 60% of our charges. (Vice Squad Administrator, Appendix 1, p. A-7; see also Detective #2, p. A-36)

We will return to the implications of these enforcement patterns in Section V of the report when discussing the impact of s.195.1 on the prostitution trade in Vancouver.

6. Costs of Policing s.195.1: Police Estimates for the Period 1 May 1987 to 31 October 1987

We have not attempted a sophisticated analysis of the costs of s.195.1 enforcement although we can present some figures on policing costs since these were computed by the Vancouver Police Department for a six month period in 1987.

TABLE E
COSTS OF POLICING S.195.1 FOR A SIX MONTH PERIOD IN 1987

Number s.195.1 Charges laid = 762

Person-years worked

Detectives	one detective year
Constables	2.3 constable years

Salary Costs

Detectives (salary, benefit, clothing)	= $50,356
Constables	= $100,885

Court Time

Detectives 140 appearances (estimated that 80% are on afternoon shift)	= $13 319
Constables 480 appearances (estimated that 50% are on afternoon shift)	= $24,825

Rental Car

Two rental cars	$7,163

Total Estimated Cost (not including miscellaneous costs	$196,548

C. THE PROSECUTION

1. Time Taken for Cases to Come to Trial

Table 23 depicts the total number of court hearings involved in each s.195.1 case. In the case of youths, the average number was 3.88, in the case of adult prostitutes it was 5.27, and in the case of tricks it was 2.97. The lower average in the case of tricks probably reflects the fact that a) far fewer tricks than prostitutes are required to appear at a bail hearing, b) prostitutes are more likely than tricks to fail to appear in court and c) tricks are more likely to want to get the case out of the way as quickly as possible. This desire to get the case out of the way is reflected in the relative rapidity with which trick cases come to trial (an average of 69 days)[28] as compared to adult prostitutes (113 days in the case of defendants with no previous convictions, and 127 days in the case of defendants with one previous conviction -- see Table 24).

2. The Trial

S.195.1 trials are usually quite straightforward, not particularly demanding of the prosecutor's skills, and they rarely last more than ten to fifteen minutes since only one (in the case of prostitutes) or two (in the case of some tricks) witnesses take the stand.[29] One prosecutor summarized the proceedings as follows:

> (H)alf an hour would be the time allotted to do the case... Usually only the evidence of the PC is given -- defence counsel rarely asks the defendant to take the stand -- and there's very little cross-examination generally. In the case of a john, the john will usually take the stand. In the case of prostitutes defence is looking for the Crown to make a technical mistake. (Crown Counsel #2, Appendix 1, p. A-84)

Another prosecutor described court proceedings this way:

> Generally speaking, trials are very brief. The Crown's evidence is quite straightforward. It might take eight or ten minutes, and often there is no cross examination at all. (The defence) is just trying to make sure that the Crown is able to prove its case. If there's cross examination -- which is usually directed at a particular issue -- we might take a total of 20 minutes. The cases that get lengthy are the cases that involve Charter issues -- of which we have had many -- and they can go on for a couple of hours. (Crown Counsel #3, Appendix 1, p. A-93)

a) Pleas

Table 26 depicts the various proportions of tricks and prostitutes pleading guilty and not guilty to s.195.1 charges. The statistics presented relate to the plea that was entered at the trial (we thus do not know how many pleas of not guilty were entered at earlier hearings only to be changed to a guilty plea on the day of the trial).

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[28] As measured from the date of arrest to the date of the trial and sentencing of the offender. Sentencing almost always occurs on the day of the trial -- Table 28 indicates that pre-sentence reports are rarely prepared in the case of adult s.195.1 offenders.

[29] During the first few months of s.195.1 enforcement, conversations between decoys and suspects were tape recorded. The practice was discontinued because it was found to be unnecessary.

In terms of pleas entered, youths are quite distinctive to the extent that in only two instances was a not guilty plea entered (in cases which were completed, 38 of 40 defendants entered a guilty plea).

When it came to tricks, in cases where the proceedings were not halted for some reason (by a stay of proceedings or a withdrawal of a charge, for example), 45 (62.5%) of 72 defendants plead guilty to the charge. In the case of the equivalent group of adult prostitutes (i.e. those with no previous convictions) 68 pleaded not guilty, and 69 pleaded guilty. A slightly greater proportion (63.4%) of the prostitutes with one previous conviction pleaded guilty.

b) Defending Prostitutes

In the case of prostitutes, when it comes to the actual nature of the communication -- who says what and when -- there is rarely any contesting of the facts of the matter as presented by the prosecution. For one thing, the prostitute virtually never takes the stand. But even if she (or he) did, the accused is still at an enormous disadvantage:

> ... she's dealing with so many different guys on the street that I'm convinced that when she gets out of the car ... she doesn't remember who said what. She may vaguely remember, but, especially a couple of months down the road, she's not going to remember what was said; so what can she say? There's not much that she can say. (Detective #1, Appendix 1, p. A-21)

A defence attorney explained the decision not to put a prostitute witness on the stand this way:

> The actual content of the conversation is usually not at issue because I hardly ever call my client to the stand -- it's not worth it because the police are under instructions not to proceed until certain magic words are spoken. If these words are not forthcoming, the police can get away with encouraging the suspect to say certain things. The only case that we've had where an entrapment defence might have worked, the client got an absolute discharge so there was no point in pursuing it. The difficulty is that the prostitute or the female accused is out on the street anyway. (Defence Counsel, Appendix 1, p. A-212).

Also, one problem with putting a prostitute on the stand is that cross-examination could have some unfortunate consequences from the defence's point of view:

> (T)he policeman's evidence as to what took place in the conversation is not really at issue. If a lawyer sees any difference between her story -- which he already knows -- and your story ... he will try to scrutinize your story to see if there's any weak points rather than put his client on the stand. If she takes the stand, the prosecutor can ask if she is a prostitute and all kinds of questions about what she was doing. "Have you ever been convicted of this before? Is this your record? Yes? " In which case it's game over for her. So putting her on the stand is not the best thing. I've only seen it once or twice. (Detective #1, Appendix 1, p. A-21)

These comments would generally seem to suggest that failing a landmark court decision, most prostitutes have very little chance of being found not guilty when charged under s.195.1.

Generally then, the defence of prostitutes does not revolve around the circumstances or content of the communication, but around technical issues relating to the meaning of s.195.1 or about the application of the law by the police. We asked our two defence counsel respondents how they approached the task of representing defendants appearing on s.195.1 charges. In no case will either of these attorneys entertain a plea of guilty in such cases (regardless of whether a prostitute or trick is involved). To understand their answer requires some appreciation of the fervor with which they approach s.195.1 defences, and their utter disrespect for this particular law:

> I feel that Section 195.1 is an abomination. It's an abomination of individual rights. It's contrary to principles of fairness. Pleading guilty means that you're guilty of a criminal offence -- I simply don't think that the activity proscribed by 195.1 should be a criminal offence. The legislation is drafted much too broadly -- it's being a prostitute that is being criminalized. The law does not define a tangible "nuisance."
>
> More pragmatically, why not plead not guilty? My client doesn't get anything for pleading guilty. They don't get treated any differently by the prosecutors or the courts if they plead guilty, so we might as well go for it -- especially if it's an unfair law. We might as well try to find a technicality to win the case, or put the Vice Squad on oath to testify in order to see how their story sounds. I've found that when you do that, you're going to win your share of cases that initially looked hopeless. All of these cases look hopeless when you start them, but there's always the chance of something. Recently, the identification of defendants has been the big issue. Of the cases I did in February as many people got off as got convicted -- there were eight convicted, eight acquitted and one charge was stayed.
>
> *Our study of cases indicates a 92.3% conviction rate for prostitutes and 78.5% for tricks.*
>
> It goes in spurts. As soon as you find an issue like arbitrary detention, all of a sudden, a whole slew of defendants are found not guilty as judges follow the precedent. Now the issue is identification. But the Vice Squad is trying to figure out ways to circumvent that problem. What happens is that regular police patrol officers work for the Vice Squad for two week periods. The practice has been for the one officer to come to court to act as a witness. The officer has never seen the defendant before or since. He didn't arrest her -- the arrest was made by the back up team. So if the single officer doesn't have good notes on identification and doesn't call someone from the arrest team for corroboration, how can he or she swear that the person in court is the person who was arrested? 195.1 is an easy charge for the Crown to prove if all the evidence is in order. But if the Crown starts acting like it's going to be an automatic conviction, that's when the prosecution gets sloppy -- that's when the defence will poke a hole in the prosecutor's case. (Defence Counsel, Appendix 1, p. A-211)

c) Defending Tricks

The problems which prevent defence attorneys from putting prostitutes on the stand do not apply to the purchasers of the service since it tends to be much easier for them to explain what they were doing ("just driving by") immediately prior to having a conversation with a decoy (although it is not as easy to explain why they stopped). As a result, tricks often take the stand. But if they do sometimes contest the allegations of police witnesses, such arguments are not usually convincing, given the testimony presented by the police. Thus in the case of tricks too, the police testimony on the substance of what was said is not usually contested. Nevertheless, tricks are more than twice as likely as prostitutes to avoid conviction once they have been charged.

One of the most successful defences of customers has pertained to the issue of the *purpose* of the communication he had with an undercover police woman. The characteristic defence is that the customer had no intention of obtaining the sexual services of the prostitute, but rather, as one Crown memorandum put it, "was simply inquiring, or gathering general information for his Sociology 101 class, or for some other such obscure purpose."

> The johns are the most likely to be acquitted. Judges feel that the man is embarrassed by the whole situation, that he's had to go to court, risk exposure, and that's punishment enough. I think that a lot of the judges let the john off with a fine or probation. A lot of the johns say they were curious, they were wondering what the girls charge and they were only asking for interest's sake but that they had no intention of carrying through with the act. A lot of acquittals of johns are on that basis. Obviously we're not going to let our girls go to bed with these guys to prove that they were going to go through with the act. (Detective #2, Appendix 1, 31)

d) Identifying the Accused in Court

When it comes to the issue of identifying offenders in court, the prostitute is once again at a disadvantage compared to a trick. First, she is likely to have sat in the decoy's car for several minutes so that he had a fairly good opportunity to look at her. Second, the police took her photograph. In contrast the trick sat inside a vehicle while he had a conversation with a police officer, often on a dark street, that lasted for only 30 seconds. Thus it is sometimes difficult for decoys to identify trick defendants:

> (W)hat they were doing -- I suppose to save money -- is only calling me. The problem is if I only have a five line conversation with a guy, how can I identify him in court? I can't get up there and put a bible in my hand and say, "Oh yes, it's him," when the incident might have been months ago. So I would get in there and I would say, "I don't remember this guy." A lot of the times you don't." There's too many other things you're thinking of. Your safety, the conversation, other things. You don't take that good of a look at a suspect when it's dark.
>
> *(So how do you get around that?)*
>
> I just tell the prosecutor that I don't think I can identify the suspect... (Isn't it possible to have a member of the backup team come and identify the accused?) Yes, that's what we're doing now. (Policewoman #1, Appendix 1, 42-43)

In the case of another policewoman we interviewed, the problem of identifying the accused in court had not represented much of a problem. Although her conversation with the accused was usually brief she observed:

> (M)y main purpose in standing there was to have a fellow stop and offer me sex for money and I had to be able to recognize him in court later. I'd always jot down the general conversation and a description as soon as I got back to the car, or if I was being picked up, on my way back to the station... I really didn't experience any problems as far as identification went with any of these guys. (Policewoman #2, Appendix 1, p. A-53)

Because of the problems of identification sometimes experienced by police witnesses the s.195.1 orientation manual suggests that if the decoy has any doubt that he/she can identify the accused, a note to that effect should be included in the police report to Crown counsel so that a member of the backup team can also be called to testify.

> If (the decoy) can't identify the accused, then ... we'd call the arresting officer to make the identification. We call the arresting officer to testify that he saw the conversation between the accused and the undercover officer. He saw the accused drive away in a vehicle with the same license number as the vehicle that the accused was arrested in. (Crown Counsel #2, Appendix 1, p. A-84)

In talking about problems faced by the prosecution, one of our Crown respondents noted that in only about 10% of cases was it necessary to call a member of the backup team as well as the decoy because identification problems might occur (Crown 2, Appendix 1, p. A-84).

e) Disposition

Our statistics on the outcome of court proceedings, like the testimony of our respondents, indicate that s.195.1 is a very efficient law in terms of the ease with which convictions can be secured. In the case of youths, both defendants who pleaded not guilty were convicted. Charges were stayed in 11% of the sample of Family Court cases to yield a 86.9% conviction rate up to April 1987. In the case of adult prostitutes the conviction rate was 94.1% during that same period, and in the case of tricks, it was 78% (Table 27 provides the figures from which these rates were calculated). The Pithart decision would certainly have had the effect of lowering the conviction rates of adults, especially prostitutes, since an (undetermined) number of charges were stayed as a result of it. Certainly, the number of cases stayed was not substantial, and would not have had much of an effect on the overall conviction rate since the revision of s.195.1 in December 1985.

While s.195.1 certainly must be judged as "successful" in the sense that it resolved all the semantic difficulties that had beset the first version of s.195.1, it is a charge which is still vigorously contested in a substantial proportion of cases (Table 26). As noted above, the two defence lawyers we interviewed (Appendix 1, pp. A-211-220) will not take a s.195.1 case if the defendant intends to plead guilty (and between them they may have defended as many as 20-25% of the persons charged under s.195.1 in Vancouver over the past two years). There has thus been a considerable amount of debate in court about the interpretation of s.195.1 and, indeed, about its overall status as a law. There is a small cadre of defence lawyers who, on philosophical grounds, are vehemently opposed to the law and out to defeat it in any way possible. In the wake of the numerous defence strategies that have been employed to undermine s.195.1 a number of pivotal judicial decisions have ensured its on-going efficiency. As we have seen, the Pithart decision certainly had an effect on police practices. But it is the only decision -- apart from the short-lived striking down of s.195.1 in March and April 1986 as a result of the decisions in McLean and Tremayne [30] -- which interrupted what otherwise has been a smooth flow of cases through the courts.

D. JURISPRUDENCE

1. Constitutional Arguments

The main challenge to the constitutionality of Section 195.1. argued that it contravened the Charter of Rights (R. v. McLean; R. v. Tremayne (B.C.L.R. (2nd) 232)). The initial provincial court decisions upheld this argument and thereby struck down parts of s.195.1 (McLean, 3 March 1986, Libby, P.C.J.; and Tremayne, 10 April 1986, Lemiski P.C.J.). But when these cases were heard by the British Columbia Supreme Court on 7 May 1986, s.195.1 was held to be constitutionally valid -- as offending neither Section 2 or Section 7 of the Charter of Rights.

In another challenge, defence counsel endeavored to argue that because the Nova Scotia Court of Appeal had ruled that 195.1 was unconstitutional (R. v. Skinner (1987), 35 C.C.C. (3d) 203, N.S.C.A.), persons charged in British Columbia with 195.1 offences were not being treated equally before the law as required by Sections 6 and 15 of the Charter of Rights. A Crown memorandum of September 1987 observed:

> Judges have dismissed this argument out of hand on the basis that to make such a ruling would attack the very basis of the Canadian Judicial System, the principle of *stare decisis*.[31] Such rulings have been rendered by Judge K.A.P.D. Smith (R. v. O'Connell) Judge McGivern (R. v. Southwell) and Judge Davies (R. v. Maxime).

2. Can Only the Initiator of the Conversation be Charged?

The interpretation of 195.1 in Regina v. Edwards and Pine (18 December 1986, unreported, County Court, Vancouver, Cowan, J.) is described by a Crown Memorandum on the subject as being the one that prevails:

> Both the prostitute and her customer are liable if either engage in any of the activities proscribed by s. 195.1. Parliament cast a wide net and included more than just the 'initial communicator.' In addition, s. 195.1 delineates several ways in which the acts sought to be proscribed can be committed.

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[30] McLean, 3 March 1986, Libby, P.C.J.; Tremayne, 10 April 1986, Lemiski, P.C.J.. The decisions, dealt with in Section IV D 1 of the report, were reversed on 7 May 1986. These cases are now before the Court of Appeal.

[31] This rule provides that if a decision by another court has not been over-ruled by a higher court or parliament itself, it will be followed by other courts at the same level.

S.195.1(1)(c) is one of the ways. Defence Counsel for both accused are appealing to the B.C.C.A..

3. Should "or" in Section 195.1(c) be Interpreted Disjunctively or Conjunctively?

One argument presented by defence counsel was that the "or" in s.195.1 should be interpreted conjunctively, otherwise there is no specifiable nuisance (such as the act of interfering with pedestrian or vehicular traffic) associated with the offence. In the eyes of some defence attorneys, this makes criminal an act (speaking to a police officer in a closed car for two or three minutes) that cannot be properly construed as a nuisance (see e.g. Appendix 1, p. A-218). The reasoning follows from the Hutt decision that "soliciting" is not simply the act of communicating for the purpose of prostitution, but the nuisance created by "pressing and persistent" behavior. As one defence lawyer explained

> The Head case involved the interpretation of 195.1. On the Crown's reading of it, the language in sub-section C suggests there are two separate offences contained therein. Our reading of it is that there are two components of the offence disjoined where they should be conjoined. Only this way does the nuisance component of the offence make sense. The Crown has adopted a preferential reading of that provision. We are arguing that there has to be a stopping of or impeding of the flow of vehicular or pedestrian traffic as well as a communication for the offence to occur. In that case, the initiation argument would become central to the issue of guilt. As it stands, it's 30 seconds of conversation for a criminal record. (Defence Counsel, Appendix 1, p. A-212)

The courts, however, have (so far) taken a different position. As a Crown memorandum explained:

> Regina v. Head (13 January 1987, County Court, Sheppard, J.) notwithstanding there is some ambiguity in the style of drafting of s. 195.1 (1)(c) Parliament intended that "or" in paragraph (c) should be given its normal disjunctive meaning, thereby setting out four ways in which the offence can be committed.

Defence counsel is currently appealing this decision.

4. Is a Car, as Defined in s.195.1(2), a Public Place?

One of the first issues dealt with in processing s.195.1 cases was the status of a car as a public place. Numerous provincial court judges have taken judicial notice of the fact that a car located on a public street, or travelling in a public street, is a "public place" within the definition of section 195.1.

5. Is a Moving Car a Public Place?

In November 1987 one judge ruled that under the definition provided in s.195 a moving car was not a public place (R. v. Smith), thus causing several cases to be dismissed (Crown Counsel #3, Appendix 1, 92). While initially this decision caused some concern to prosecutors, it soon became apparent that most judges were accepting the argument that if the communication commenced while the vehicle was stationary (usually when the accused was standing outside it) and continued once the car had begun to move, that a communication for the purpose of prostitution had occurred in a public place (the purpose of the original communication being established by the subsequent conversation in the vehicle). As one Crown attorney explained:

> In terms of the judge who made the decision -- and in fact in all cases -- the Crown endeavors to establish that some conversation or communication took place outside the vehicle before it began to move. Any conversation which takes place in a moving vehicle after a prostitute gets in helps to establish the purpose of the conversation which took place outside the vehicle. (Crown Counsel #1, Appendix 1, p. A-79)

Another prosecutor noted that the case:

> ... caused a minor ripple ... but since the decision in Smith, that judge has turned around somewhat and said that as long as the conversation is initiated outside the vehicle the offence has been committed. Such conversation outside the vehicle does not necessarily have to be specific communication about sex, but the fact that it takes place outside the vehicle indicates that the purpose of the communication was about buying sex -- even if the part of the conversation about sex occurs after the vehicle is moving. So the decision in Smith has not caused any major problems. (Crown Counsel #2, Appendix 1, p. A-87)

We have also been informed that many judges do not agree that a moving car is not a "public place" as defined in s.195.1 in which case it would not matter if the whole conversation occurred in the decoy's car.

6. Can a Judge Take Judicial Notice of Street Slang?

One of the interpretational issues regularly arising during the first year of s.195.1 in court was whether a judge could take judicial notice of sexual slang. In a Crown memorandum dated 2 Sept. 1987 the matter seems to have been put to rest:

> The argument that judicial notice can be taken as to the meaning of slang terminology seem to be well settled. Such popular colloquial terms as "blow job" and "lay" are sufficiently common for the judge to interpret as sexual activity. Careful practice, however, is to have the undercover police officer define the term in the course of evidence in chief. Some terms, such as "flat-backing" and "one-on-one" are more obscure and are not subject to taking judicial notice as to meaning.

7. The Problem of Arbitrary Arrest and Detention

Since we talked in some detail earlier about the issue of police arrest policies, and the impact of the Pithart decision (Section IV A 6) we simply give a capsule summary of the issue here.

In R. v. Pithart (57 CR (3d) 144 (B.C.C.A.) Legatt, C.C.J.) it was ruled that a person who had been arrested as a matter of "police policy" without consideration of s.450(2) of the Criminal Code had been arbitrarily detained within the meaning of section 9 of the Charter of Rights.

This decision had no long term consequence for the continued enforcement of s.195.1 since it is no longer "police policy" to arrest all persons charged. As a result of the Pithart decision police are careful to base their arrest and release decisions on the provisions laid out in s.450 and s.452 as interpreted by the courts. From the police perspective this decision is, however, perceived as weakening their power to control street prostitution since they cannot physically remove many prostitutes from the street even when they have charged them.

8. Other Issues: Arrest Quotas

One other issue that has arisen in court, and threatened to become the basis of some kind of defence (the substance of which is unknown to us), concerned whether the police in enforcing s.195.1 operated according to a quota system. One defence attorney, on cross-examining a police constable on loan to the Vice Squad, claims that he was told that the s.195.1 enforcement team did indeed operate on a quota system. Later the statement was retracted (Appendix 1, p. A-213). When asked if a quota of charges was set, the officers we interviewed explained police practice in the following way:

> There is what you might call an anticipated level of productivity. By virtue of keeping computerized records, we know that there is an average of about 30 charges a week. We have a low of 4 one evening and a high of 9. But we do not set a "quota." A quota would mean that once a person had the requisite number of arrests, he would then go home -- even though he'd only worked for an hour. On the other hand, if he worked for eight hours and hadn't arrested anyone, he'd have to stay until he got his quota. Neither situation prevails. (Vice Squad Administrator, Appendix 1, pp. A-2-3)
>
> To us a quota says you have to get x amount of arrests in a given day. And that's not the case with 195.1. We can easily get 6 to 8 charges a night and have time to write them up. (Detective #2, Appendix 1, p. A-30)

From these comments, and from scrutiny of patterns charges laid, it is fair to say that the Vancouver police do not operate a quota system in enforcing s.195.1 to the extent that they do not strive to lay a pre-set number of charges each night or each week.

E. SENTENCING

1. Guidelines for Crown Submissions on Sentence

The Crown makes the same submissions whether the accused is a prostitute or a customer.

The guidelines for sentence submissions are laid out in various internal memoranda. The Guidelines as of February 1987 were as follows:

> First Offence
>
> The Crown asks for a substantial fine and a period of probation with an area restriction. We are not always successful in obtaining area restrictions because of a Vancouver County Court case (R. v. Baxter, Boyd J.) which requires the Crown to prove that the accused has repeatedly committed soliciting offences in the area in question or is a well known prostitute (or customer) in the particular area in question. The Crown is relying on the Fairburn case (Vancouver County Court, Melvin J.) which upholds area restrictions as being appropriate in view of the notoriety of the street soliciting problem.
>
> Second and Subsequent Offences
>
> The Crown seeks a substantial period of incarceration.

An internal memorandum distributed in September 1987 gives a more detailed description of the principles underlying the policy for sentence submissions:

> First Offence
>
> The Crown asks for a substantial fine in all cases. In seeking a fine the Crown should emphasize the sentencing principle of general deterrence. In the course of submission the Crown should touch upon the nuisance and disruption of the community caused by prostitution-related activities. Any fine imposed should be of sufficient amount so as not to be considered a mere licensing fee. (Some Courts may need to be reminded that the maximum fine is now $2,000, rather than $500 (Section 722 C.C.C.)).
>
> The Crown will continue to seek area restrictions in all cases involving pure residential areas. In cases such as Mount Pleasant, the Crown has been able to obtain area restrictions as appropriate in view of the notoriety of the street soliciting problem (R. v. Fairburn, Van County Court, Melvin J.). The Crown should also emphasize at sentencing any factors which tend to prove that the accused is regularly involved in soliciting offences in the area, or is a well known prostitute (or customer) in the particular area in question... In non-residential areas, restrictions should be sought if such factors pertain.
>
> Second and Subsequent Offences
>
> The Crown should seek a substantial period of incarceration. The appropriate period of incarceration should increase according to the number of previous convictions.

These guidelines are not totally inflexible:

> (P)rosecutors can exercise some discretion -- there's a 1001 factors involved that may have you departing from the guidelines... I did a case recently where the woman had no other criminal history but because she had one prior conviction for soliciting our guidelines indicated that we should ask for jail. She was 8 1/2 months pregnant, and had never been in

> custody before. In this case I'm not going to ask for jail. There are various other circumstances. For instance, somebody comes and says that they were working the street ... because of a drug problem, but that they are no longer doing so... (T)hey're now enrolled in a drug program and we've got letters from counsellors saying that the accused is doing very well. They have 6 children at home, they're a single mom, and they had previous convictions when they were in prostitution to support their habit. It appears that they aren't working now. In that circumstance I wouldn't ask for jail. (Crown Counsel #3, Appendix 1, p. A-94)

A senior Crown Attorney described the overall philosophy of his department's approach to s.195.1 offenders in court:

> (W)e react to prostitution in residential areas differently to that which occurs elsewhere. If we're dealing with persons from residential areas, boy, we're right there. We want area restrictions, curfews; we want everything we can get. On a second offence in a residential area we would like to see the imposition of prison terms. We're asking for a suspended sentence and/or probation for a first offence. Most of all we're trying to convey the message to get the heck out of Mount Pleasant... Our first priority is to make sure that everybody gets a criminal record for street prostitution and the appropriate conditions. (Regional Crown Counsel, Appendix 1, p. A-73)

When asked if there is a deliberate policy to avoid charging persons working in the non-residential Seymour-Richards area, the same attorney stated,

> It is not really appropriate to say there is a policy -- the Crown can only prosecute the cases that come across our desks. Clearly, our main concern is that tax-paying citizens -- their homes, their children, all the things that are commonsensically important -- are protected. People are being prosecuted in the Seymour-Richards district. But we are not flooded with complaints from that area. It is not residential. If I owned a restaurant down there, I'm not sure what my attitude would be. I guess it would depend on who my customers were. (Crown Counsel #1, Appendix 1, pp. A-73-74)

The two defence attorneys we interviewed were quite critical of the guidelines because they see them as stressing one aspect of sentence decision making at the expense of others:

> (T)he law is being applied without flexibility, without consideration of the differences between offenders. Apparently there's a gentleman whose wife died a very difficult death due to cancer. She died over six months ago, or something like that. A little while after her death he asked an undercover police officer posing as a prostitute for a blow job. His lawyer has tried to get Crown to drop the charges but they will not. (Defence Counsel, Appendix 1, p. A-214)

Another commentator pointed out that the requests of prosecutors for jail sentences for a second s.195.1 conviction must seem incongruous to judges faced daily with a variety of criminal offences:

> Judges are balking because of the nature of the offence. They compare this to the many other crimes that come before them and what they see is a woman getting into a car and driving down the street. A police officer says,

> "What are you doing tonight?" and she replies, "Do you want a lay?" In the face of that kind of crime they are initially reluctant to send someone to jail. But they make the point each time -- which is a valid enough point -- "You keep doing this and I've got to send you to jail." (Defence Counsel, Appendix 1, p. A-213)

In no case we are aware of has the Crown "diverted" s.195.1 offenders, even though it is a summary conviction offence.

2. Sentence Appeals

The only information we have on sentence appeals initiated by the Crown is that provided by a September 1987 Crown memorandum:

> The Crown will consider an appeal in every case where the sentence is viewed as inadequate to constitute a deterrent to others.

We are not aware of how many sentence appeals have been registered (by either Crown or defence) although it appears to be very few.

3. Calling Evidence on Sentencing

Anti street prostitution activists continued their campaign against street prostitution after the enactment of Bill C-49 by attending trials and recording the sentences handed out. This court room presence was designed to bring pressure to bare on the Crown to recommend stiffer penalties and on judges to become more punitive in a general attempt to get the courts to treat s.195.1 as a serious offence, even if it does only entail a summary conviction. In supporting the cause of "Courtwatch" -- or perhaps yielding to its pressure -- prosecutors attempted to call certain Mount Pleasant activists to testify about the problems caused by prostitution in residential areas. On at least one occasion evidence was presented, but most judges precluded such testimony reasoning that they were well aware of the arguments which would be presented:

> When prostitution was a big deal in Mount Pleasant we ... called citizens to talk about problems. A judge might say, "How do I know that people are being affected? You call a policeman in here to tell me that this is a serious thing in the community, and that I should give this person a criminal record. But the policeman doesn't live in the community, how would he know?" We countered this kind of problem by saying, "All right, let's get the butcher and the baker and the candlestick maker and we'll call them as witnesses." Then we were asked by judges why we were wasting these good people's time, that they knew what the situation was in Mount Pleasant, and what a nuisance prostitution was.
>
> As far as I'm concerned we called their bluff and we won... Now they're prepared to take judicial notice of the nuisance aspect of street solicitation. (Regional Crown Counsel, Appendix 1, p. A-74)

Thus one prosecutor noted that she had sometimes made judges aware that residents were available to testify, only to find that:

> The judge, in every case, responded that he had heard the evidence of these people and that he could take notice of the problem of street

> prostitution in the Mount Pleasant area. So I never actually had any of them take the stand and give evidence. (Crown Counsel #3, Appendix 1, p. A-98)

Defence lawyers (e.g. Appendix 1, p. A-219) object to such tactics on principle, feeling that they offend due process and general criteria relating to the admissibility of evidence:

> People from Mount Pleasant were sitting in the back of the court room trying, in their own way, to influence the court. I see no connection between that particular accused who was working downtown and the activists from Mount Pleasant...
>
> There have been many instances where Crown puts a Vice Squad member on the stand and he'll say that the residents are complaining about this and that , that there is spitting, and there are condoms, and there are drugs. All my client did was get into a car and talk to a cop about sex. The anti prostitution activists bring in all this other stuff as if my client did it all. That's just not the way the law ought to work. (Defence counsel, Appendix 1, pp. A-219)

As to the position of the Crown on calling evidence on sentencing, a September 1987 memorandum to prosecutors observed:

> Having endeavored, with varying degrees of success, to call evidence on sentencing as to the nuisance and disruption of the community caused by street soliciting, it appears that the courts are prepared to acknowledge the existence of these concerns. As such it is not necessary at this time to seek to call evidence to prove these matters in the ordinary case. It is, however, incumbent on the Crown to emphasize these concerns at every sentencing procedure. As well, there may be special circumstances where the Crown may consider calling witnesses where the facts of the case warrant it.

4. Patterns of Sentencing

The results of our analysis of the sentencing of s.195.1 offenders are presented in Tables 31 to 49 and 54 (Appendix 3). Further data on sentencing are extracted from Vice Intelligence Unit reports on charges laid in 1986 and 1987 and presented in Tables 55 and 56 (Appendix 3). Tables 31 to 49 display the overall characteristics of sentences awarded and the conditions associated with them. Table 54 presents a classification of sentences to take into consideration composite dispositions (such as the combination of a fine and probation, or a suspended sentence and probation); it is thus the best overall summary of the sentencing of our sample of s.195.1 offenders.

a) First Offenders

Generally, Table 54 indicates that the most frequent sentence in the case of tricks was a fine (45.2% of sentence offenders), followed by a conditional discharge linked to a term of probation (33.9% sentenced offenders). Six offenders were given absolute discharges (9.7%). In the case of first offender prostitutes, only one person (.8%) was given an absolute discharge. The most frequent disposition for first offender prostitutes was a suspended sentence accompanied by a period of probation (36.9% of sentenced offenders), followed by a fine (30.1%). A further 14 offenders (10.5%) were given a conditional discharge and probation, and 13 (9.8%) were given a fine and probation. Fourteen prostitutes (10.5%) were imprisoned for their first offence (4 of whom were also given probation terms). No tricks were imprisoned. Table 32 indicates that the average sentence for a prostitute first time offender who was jailed was 7.8 days; all but one of the one day sentences shown in Table 32 had probation terms attached to them.

There are two main difference in the sentencing of first time trick and prostitute offenders in our sample. The first consists of the greater likelihood that a prostitute would be imprisoned, even if for only a short period (Table 32), than a trick. No trick was sentenced to as much as a day in jail while 10.5% of prostitute offenders were incarcerated for periods varying between one and thirty days.

The second difference consisted in the propensity of judges to suspend the sentences of prostitutes in cases where they are more likely to conditionally discharge a trick. Both suspended sentences and conditional discharges have terms of probation attached to them. The key difference between the two dispositions is that if the conditions of the discharge are met, a conviction is not registered against the offender (Criminal Code section 662.1(3)), whereas a conviction is registered in the case of a suspended sentence. The suspended sentence and conditional discharge are similar in that in both instances, if the offender does not abide by the conditions imposed by the court, he/she is liable to be charged with another criminal offence (for a breach of probation) and be resentenced for the original offence (in the case of a conditionally discharged offender, this would mean that the discharge would be revoked -- see Criminal Code section 662.1(4)). The consequence of the difference between the two sentencing options is that if an offender with a suspended sentence successfully completes a probation order he/she ends up with a criminal record while a conditionally discharged offender who successfully completes a probation order does not. To this extent, since tricks are more likely to be conditionally discharged than prostitutes, the punishment of the equivalent prostitute and trick first offender is disproportionate. The effect of the discrepancy is that prostitutes are more systematically criminalized than tricks.

The advantages of the suspended sentence (and, by extension, the conditional discharge) over fines and short jail terms was explained by one Crown attorney in the following way:

> Our feeling has always been that a suspended sentence is a very effective technique because it holds a hammer over people's heads in a way that giving them a week in jail does not...
> (When) we're dealing with someone who already has a suspended sentence and probation ... (w)e would bring them in and charge them with a breach of probation ... If they're back hooking in Mount Pleasant when they have an area restriction preventing them from going there, we would prosecute them for breach of probation... If successful in obtaining a conviction, we would then bring them back before the original sentencing judge and ask for a jail term... (Regional Crown Counsel, Appendix 1, p. A-74)

When it came to the severity of sentences in terms of the amount of fines and the length of probation periods, there does not appear to be much difference between the first time prostitute and trick offenders included in our sample. The average fine for a prostitute first time offender was $126.41, and for a trick it was $138.75[32] (Table 35). The amount of time to be served in lieu of payment of fines is shown in Table 36 and the amount of time given to pay fines is shown in Table 44. Tables 52 and 53 show the incidence of fine defaulting and the outcome of arrests arising as a result of fine defaults. Clearly, many prostitutes are chronic fine defaulters (more than half of the prostitute first offenders defaulted). As was the case with the value of the fines levied, similar terms of probation (Table 41) were given to prostitutes (an average of 10.6 months) and tricks (9.4 months).

Table 42 indicates that community work service orders do not figure significantly in the sentencing of either adult prostitutes or tricks in Vancouver.

b) Differences Among Judges

Given the number of judges who preside over s.195.1 hearings (26 different judges presided over the trials of our sample adult defendants) it has not been possible to analyse patterns of sentencing among judges with any degree of statistical confidence. It is clear from our sentence data that a range of different sentences are handed down, and that some of these differences have important consequences for offenders. The question that we cannot answer definitively is how consistent individual judges are in sentencing s.195.1 offenders. We did examine the sentences of different judges for the largest group of adult offenders in our sample of cases -- first time prostitute offenders who had no criminal record of any kind at the time that they were sentenced. Twenty-two judges were involved in the sentencing of these offenders, of whom five handled over five cases each for which we have complete information on the sentences awarded. One of these judges gave two fines and four conditional discharges; one gave two fines, three suspended sentences and one jail term; one gave a fine, a suspended sentence, and five fines accompanied by probation orders; one gave two conditional discharges and two suspended sentences, all of which were accompanied by probation orders; and one gave five fines. Thus in only one case did a judge act consistently in sentencing offenders who, ostensibly on paper, had little to distinguish between them. While not too much should be made out of these results because of the limited information on which they are based, one has to wonder on what basis the same judge is prepared to criminalize one offender by awarding a suspended sentence, and let another go without a record of a conviction (as long as they successfully abide by the terms of their probation order) by awarding a conditional discharge.

(1) Area Variations

We have only been able to examine sentencing patterns in relation to the areas in which offenders were charged in the case of adult first offender prostitutes. Table 57 describes the sentences awarded to our sample of first time s.195.1 offender prostitutes charged in each of the three primary stroll areas. There do not appear to be any obvious differences in the sentences awarded to prostitutes charged in different areas, apart from the relatively smaller likelihood that persons charged in the Richards-Seymour area would be sentenced to a jail term for their first offence in comparison to persons charged in Strathcona (in contrast, the fines of women charged in Strathcona were somewhat lower than the fines of persons charged in the other two areas).[33]

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[32] The figure is slightly different from the amounts shown in Table 54 since the latter figure excludes fines that were levied in association with a period of probation. The figures in Table 34 include all fines.

(2) Temporal Variations

Table 56 depicts the sentences awarded to first time s.195.1 offenders with no other criminal record in 1986 as compared to the first six months of 1987. In the case of tricks there appears to be a fairly consistent distribution of different types of sentence. In the case of prostitutes the only change appears to be a slight decrease in the percentage of persons fined with a corresponding increase of suspended sentences coupled with a term of probation.

5. Sentencing Repeat Offenders

Our sample of tricks charged under s.195.1 includes no repeat defendants. As of January 1988, there were only 11 trick repeaters. In contrast, almost half of all charges laid against prostitutes in 1986 and 1987 involved persons who had been previously charged. Our sample of prostitute offenders includes 59 cases (28.8%) involving persons with at least one previous s.195.1 conviction -- 43 second offences, 10 third offences, four fourth offences, and two fifth offences (Table 14). This data base allows a reasonably reliable comparison of sentences for first and second offender prostitutes. Although the sample is very small, our information on the sentencing of third and fourth time offenders is consistent with the sentencing data provided by the Vancouver Police Department Vice Intelligence Unit presented in Tables 59 and 60.

As one would expect, judges awarded progressively more severe (or, as some observers would have it, less lenient) sentences to repeat offenders. Table 54 indicates that the proportion of offenders who were discharged became progressively smaller with each repeat offence (from 13.6% in the case of first offenders, to 9.3 in the case of persons with one conviction, and none in the case of persons with two or more previous convictions), and the number of sentences including jail terms progressively increased (from 10.5% in the case of first offenders, to 27.9% in the case of persons with one conviction, and 62.5% in the case of persons with more than one previous conviction). As the number of previous convictions increased, the average jail term increased from 7.6 days in the case of first offenders, to 11.6 days in the case of persons with one conviction, to 22 days for persons with three or four convictions (Table 32). Similarly the average fine increased from $126.41, to $194.74 to $225.00 for first, second and third offences respectively. The length of probation orders for first and repeat offenders did not differ significantly (Table 41). Table 58 compares sentences awarded to prostitutes convicted for the first time under s.195.1 to persons with one or more previous s.195.1 convictions. These data show that repeat offenders were more likely to be awarded jail sentences (37.9% of repeaters were jailed compared to 10.5% of first time offenders) and less likely to be discharged or have their sentence suspended than first time offenders (20.6% of repeaters were given a discharge or suspended sentence as compared to 48.9% of first time offenders).

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[33] These data relate to 129 first time offenders of whom 56 had at least one other criminal conviction. When first time offenders (i.e. persons with no previous convictions of any kind) were compared to first time s.195.1 offenders who had some other criminal conviction we found that only 3 of 73 (4%) of the former group were imprisoned for their first s.195.1 offence in comparison to 8 of 53 (15%) of the latter group. Our sample of cases indicates that the greater likelihood that Strathcona prostitutes would receive a prison sentence than their counterparts charged in other areas probably reflects the fact that the percentage of persons charged for the first time under s.195.1 who had no other criminal record varied from 73.2% in the Richards-Seymour area to 49.4% in Mount Pleasant and 29% in Strathcona.

Generally, descriptions of sentences provided by the Vice Intelligence Unit (e.g. Table 60) confirm the impression created by our small sample of third and fourth repeat offenders that prostitutes are more likely than not to receive a prison sentence as a result of a third or subsequent conviction. This was also the impression of our two defence counsel respondents.

6. Probation Conditions

As we have already noted, the advantage of suspended sentences over fines and short prison sentences from a controllers point of view is that they allow an on-going influence over the offender. It is the same sense of leverage that makes probation an attractive sentence alternative for first time offenders. Besides being bound to keep the peace, probation orders allow the imposition of a variety of other conditions, including residence requirements, area restrictions and curfews. The characteristics of these restrictions are summarized in Tables 46 through 49. Table 46 indicates that area restrictions were imposed in 38.3% of the prostitute cases and in 46.4 % of the tricks cases where sentences included probation orders. Thus area restrictions were applied to only 25% of the convicted prostitutes and 21% of the convicted tricks in our sample. Table 47 indicates the areas prostitutes and tricks were restricted from. For the moment it is sufficient to note that area restrictions almost always concerned the Richards-Seymour stroll or the Mount Pleasant area; in very few cases did they relate to the Strathcona prostitution stroll area.

a) Probation Breaches

Table 50 depicts the number of probation breaches where charges were laid. There were no records of any trick being charged for a breach of probation order. The incidence of charges for breaching probation increases with the repeat offending of prostitutes; this is hardly surprising since some of the breach charges are laid when a prostitute who is already on probation gets charged. Several cases involved more than one breach of probation (Table 51) and, since many of these probation orders had not elapsed by the time we examined the court files relating to them, there were probably more to come. Thus while probation has the advantage of facilitating on-going supervision and control of offenders, in so-doing it entrenches the street prostitute in a cycle of re-offending behavior -- assuming, that is, that he/she continues to work the street. As one Crown attorney noted:

> If we're dealing initially with lengthy terms of probation with tough conditions then it can be said that we're starting a revolving door of breaching behavior and these people are perpetually recycled through court for what started out as being a relatively innocent situation, but is then magnified. (Crown Counsel #3, Appendix 1, p. A-97)

This same respondent noted that often breach charges were not laid, however, and that the circumstances of the breaching behavior would be raised as an issue to be taken into consideration by the judge in passing sentence. It is not possible from our data to determine what the effect of such a submission would be (or if it would have resulted in a lesser sentence than would have been the case had a breach charge also been laid and a separate sentence imposed).

7. Sentencing Youths

Given that youths fall under the jurisdiction of the Young Offender's Act, the philosophy which guides the sentencing of young offenders is somewhat different from that which guides the sentencing of adults:

> The Young Offenders Act sets out the dispositions that are available on a finding of guilt. The guidelines which are established by the Crown Counsel office don't apply to youths. In my opinion they simply aren't fitting; the emphasis on sentencing is slightly different when you're dealing with a young offender than it is when you're dealing with an adult. So it wouldn't make sense to have the same set of guidelines for sentencing both adults and juveniles. (Family Court Crown Counsel, Appendix 1, p. A-104)

The philosophy followed by the Crown for recommending sentences for young offenders was described by an administrative Crown counsel at the Vancouver Family Court in the following way:[34]

> As a matter of policy because of the nature of the problem of prostitution in the community, we certainly set a lower limit on what we see as acceptable sentences. These sorts of cases are not appropriate for diversion. So, I can safely say that almost never are youths charged under Section 195.1 diverted from court because of the recognition of the seriousness of the offence in terms of its effect on the community. It's an offence which suggests that there are some problems with a youth's whole lifestyle. It's not a situation like shoplifting where the youth may very well have adequate parental control and where there isn't an overriding public concern about the offence. With 195.1 we're talking about a youth on the streets communicating for the purpose of prostitution; surely this is a youth who should be brought before the court. The proper authorities should be aware of the youth's situation and some responsibility should be taken to ensure that all is being done that can be done to help them. Consequently, almost all 195.1 cases go to court.
>
> That means that there are many first offences coming to court. Many times these youths are not involved in any other sort of criminal activity according to their court history. Then it becomes a question of what is the appropriate sentence.
>
> There is provision for absolute discharge. I'm not aware of many cases dealt with in this way. There may be circumstances where the youth was acting out of character and is able to demonstrate to the court that there is absolutely no need for any penalty or any supervision in the community. That's very rare.
>
> It's much more likely on a first offence for the court to impose a period of probation which is supervised by a youth worker. The youth will be

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[34] A reflection of this difference in philosophy is the greater degree of individualization of punishments meted out to youths. One indication of this difference is the preparation of presentence reports in a much greater proportion of the cases involving youths (27.5%) as compared to adult prostitutes (1.6%) and tricks (1.6%).

> ordered to report to the youth worker on a regular basis. Area restrictions are commonly imposed to keep the youth out of the area in which she was charged. There is often a residence condition as well -- in almost every case, the court and corrections personnel do their utmost to satisfy themselves that a youth has a place to reside. One of the conditions of probation will be that the youth resides in a certain place. A curfew may also be imposed -- a condition that requires the person to be in their residence after a certain hour. All of these are, I believe, sensible terms given the nature of the offence.
>
> After the first offence (sentencing) becomes more difficult because it's evident that the youth hasn't responded well to probation conditions. Then one has to ask why the youth is back out on the street. Are they addicted to drugs? Are they involved with a person or group of persons who are a bad influence on them? And so on. In this case they'll probably be put on probation again with more stringent terms, perhaps a wider area restriction, perhaps the youth is required to have no further contact with various people, and if they need treatment, to undergo treatment[35] under the direction of their youth worker. If they are in school, they may also be ordered to attend school regularly.
>
> Through the probation order every effort is made to try and get the youth back onto the right track, to stop them from living off prostitution. (Family Court Crown Counsel, Appendix 1, pp. A-104-105)

Our statistics on the sentencing of youth first time offenders (there were only 3 repeat youth offenders in our sample) confirm that the majority of them (84.2%) received probation. Three youths were given absolute discharges (Table 38), and four sentences included short periods of open custody (Table 31).

a) Probation Breaches

We noted above that many of the adult prostitutes placed on probation breached their conditions, and some of them did so on several occasions. Given that a considerable amount of discretion is exercised over the decision whether to charge adult offenders with breach of probation, we asked our Family Court Crown respondent what policy was followed in the case of youth offenders found to be breaching probation and other court orders. The answer was quite straightforward:

> If a youth is bound by a probation order and either the youth worker or a police officer finds the youth breaching their probation order, a report is submitted and a charge is laid.
>
> *Do you have any idea how many of those charges have been laid in relation to convictions for 195.1?*
>
> There are a lot of breaches of probation, but it's difficult to estimate how many. There are chronic breachers. Then there are others who successfully complete their probation terms -- I would never hear about them so it's difficult for me to estimate the ratio of successes to failures.
>
> *Some people believe that there is a policy not to charge breaches.*
>
> There may be some confusion as to the policy in charging breaches of probation as opposed to breaches of undertakings. There is absolutely no

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[35] Eight out of 32 (20%) of the youths for whom we could obtain records had been referred to some form of alternative treatment (drug counselling, etc.) as part of their sentence conditions (as compared to only 3.1 % of adult prostitutes).

barrier to laying charges with respect to breaches of probation. If a report is submitted showing that a breach occurred, a charge is laid (except if the breach is so trivial as to not merit it).

The other type of breach is a breach of an undertaking. If a youth has been released on an undertaking to appear in court the conditions are similar to conditions for probation. That is the person is to abide by a curfew, an area restriction, and perhaps be required to reside at a particular place, report to a youth worker, and so on. If a youth breaches any of these conditions, our practice here is to proceed with an application under Section 458 of the Criminal Code to revoke the bail of the youth based on the fact that they are demonstrating that they're not suitable to be out on bail.

We do this as an alternative to charging the youth with a breach of undertaking because I believe that it's a very fast and effective method for either bringing the youth into custody and keeping the youth in custody until the trial, or bringing it home to the youth that should they continue to breach their undertaking, they will be detained.

When police find a youth breaching his or her undertaking, they have the authority (as described in Criminal Code Section 458) to arrest them and bring them back before the court. When this happens, the youth instantly realizes that as a result of the breach, they are subject to being arrested and, more often than not, detained over night, before they can make their first court appearance. Then when they make their court appearance, given that they are in court because they failed to follow the court's orders, the onus falls upon them to show why they ought to be released.

Depending on what their past performance is on bail and on probation, they may or may not be released, depending on the nature of the particular breach. If they're out at 3:00 in the morning and they appear to be engaging in prostitution at the very location they were originally charged it would seem to indicate that, if released again, they would be back down on that corner again. It becomes obvious to the court that the accused is going to repeat the offence -- and that's one of the grounds on which a person can be detained pending their trial.

This policy was established because it seems that youths are more likely to breach their bail than adults. It may take more than one time in court to make it clear to them that they are bound by a court order. Again, this policy reflects the differing circumstances of youths and adults. I don't feel that it's worthwhile -- given the number of breaches that we experience and given the consequences of those breaches -- to charge every youth with a breach of undertaking.

I also do not believe that it is appropriate that youths receive a criminal record for breaching an undertaking the way an adult would. An adult carries any conviction for breaching an undertaking or a recognizance with them in the form of a record -- their prior record would be raised in any court proceedings designed to determine whether they're suitable for release.

In the case of youths, their record does not carry forward to adulthood. But it does come up in any deliberation in Family Court. When a person comes before Family Court we're not restricted to an examination of the prior record of the offender. A youth worker can put the whole history of the youth's conduct before the court; given that, the formal laying of a charge against a youth for breaching an undertaking is not really necessary. (Family Court Crown, Appendix 1, pp. A-105-106)

There were a total 18 probation breaches by nine of the thirty two first time youth offenders who were sentenced to probation (Tables 50 and 51). And again these statistics relate to a point in time when most of the probation orders in question still had several months to elapse.

F. ANCILLARY POLICE CONTROL MEASURES

It would not be possible to understand the effect of s.195.1 enforcement in Vancouver without taking into consideration ancillary street prostitution control measures and the enforcement (or lack of enforcement) of other prostitution laws. The most important of these ancillary efforts since the enactment of Bill C-49 was the Mount Pleasant Prostitution Task Force which functioned from May to October in 1987. We also describe the role of several other special function police units involved, amongst other things, in prostitution control including "Kiddy Car" (a special two person youth team) and the Mount Pleasant Police Liaison Team (a team of two officers working with resident and business groups in Mount Pleasant).

1. The Special Youth Team: "Kiddy Car"

Car 278, locally known as "Kiddy Car," is a special police unit charged with gathering intelligence on street youths and tracking and surveilling youths released on various kinds of court orders. The team plays an important role in monitoring the activities of youths on the street, especially in terms of identifying new faces. One of the female police decoys we interviewed had also been assigned to the "Kiddy Car" and gave the following description of the team's activity:

> Of the kids we deal with on a regular basis probably 60% to 70% are involved in prostitution and/or drugs. We spend most of our time in the Granville Mall area[36] and the outlying hooking areas: Richards, Davie, Seymour etc... We do curfew checks; we run around to probationer's houses and check to make sure their in after their curfew. We do things for probation officers who can't get out into the field, or things that can't be done during normal working hours. Normally we check up on kids who are on bail release of some sort, or on probation.
>
> *(That would include checking area restrictions...?)*
>
> Yes. Most of our charges for breach of an area restriction occur in the Seymour-Richards area and the Granville Mall area. We check on kids who have been charged with trafficking or with prostitution and have an area restriction. The Crown always requests an area restriction on kids who have been charged with prostitution.
>
> *(In a normal 5 day working week, how many kids might you check to see of they are complying with curfew conditions?)*
>
> It varies from week to week... It will depend on how busy it is downtown. We probably spend 60% to 70% of our shift downtown and in the skids (the Downtown East Side). There area lot of kids who hang out down in the skids, along the 200 and 300 blocks East Hastings. A lot of times the juveniles will get an area restriction in either Mount Pleasant or downtown

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[36] The area of Granville Street including the traditional Granville stroll (area 2, Maps 3 to 7) and the area two blocks north of it which, until 1986, was a pedestrian mall (except for bus access).

> or the skids, and then you'll see them move to the other areas. If they're picked up and charged in one of the new areas, they're given a second restriction. It's not uncommon for them to have two or three area restrictions on different probation orders. It's a a sort of cat and mouse game with them -- they see us and we see them and they take off before we can get to them.
>
> *(How do you keep up with all the probation orders?)*
>
> We carry all valid bail undertakings and probation orders and warrants that are issued through Vancouver Family Court for juveniles around with us in a large briefcase. We pick up new or amended orders daily. (Policewoman #2, Appendix 1, p. A-50)

2. Police Community Liaison Teams

There are two neighborhood liaison teams operating in areas where street prostitution occurs, one in Mount Pleasant the other in Strathcona. There is also a two man Native Liaison Team which has on-going contact with Native prostitutes. We conducted a formal interview with the Mount Pleasant Liaison Team to examine its role in prostitution control, and to ask about the effects of the 1987 Mount Pleasant Task Force (as compared to s.195.1 enforcement efforts) in displacing prostitution from the area.

The Mount Pleasant Liaison Team, a two member unit, was established in December 1986 to work with community business, political, citizen and professional groups in dealing with various crime problems. The team is charged with developing strategies to solve public order and crime problems where traditional policing methods appear to be none too successful. The primary area of demand for their services (up until the summer of 1987) has been related to street prostitution which, from the perspective of most of the groups that the team deals with, is the foremost problem in the neighborhood. The members of the team spend much of their time in Mount Pleasant and, while not involved with s.195.1 enforcement itself, contribute to the general system of police intelligence on prostitution, and part of their work includes monitoring the women (especially youths) working in the area. The team has also been involved in various initiatives involving problems associated with prostitutes operating out of apartments or houses in the area, although there have only been a few such establishments that came to the attention of the authorities (Mount Pleasant Liaison Team, Appendix 1, pp. A-62-63).

The team was also involved in the "Juvenile Prostitution Task Force" which:

> targeted 10 girls (9 out of 10 of whom are confirmed prostitutes) to try and identify the barriers to trying to help them, and to see how the present system handles them. The ten are all female because the juvenile males are very difficult to get a handle on. They don't have the street presence that allows you to do much with them. The majority of street prostitutes are female. These are the hard core group and nothing seems to have worked with them in the past. (Mount Pleasant Liaison Team, Appendix 1, p. A-67)

3. The Mount Pleasant Prostitution Task Force

Prostitution Task Forces have operated during the summer months in Mount Pleasant in each of the three summers since the enactment of Bill C-49. The 1986

Task Force appears to have been an intelligence gathering exercise more than anything else and had little effect on levels of prostitution in Mount Pleasant. In contrast, the 1987 Task Force, through continual harassment of prostitutes and tricks, was designed to make it impossible for the street prostitution trade to function. The 1988 Task Force is based on the 1987 model. Our comments relate primarily to the effects of the 1987 Task Force.

The 1987 Task Force involved seven officers devoted full time to prostitution control in Mount Pleasant from May to October 1987. The rationale for the unit was described by one officer in the following way:

> The Task Force was established in response to the concerns and complaints of the citizens along Broadway[37] to the offences being committed by customers and the nuisances by customers and prostitutes. The Task Force involved a kind of saturation patrol -- showing the flag so to speak. The visible presence of patrol police certainly scared the customers away. (Vice Squad Administrator, Appendix 1, p. A-7)

One of the members of the Task Force described its activity in the following way:

> We used to sit in our cars sometimes, across the street from where the prostitutes were working, and they'd move on. You make it difficult for them to carry on their business and they'll go elsewhere. If you do it often enough and you are persistent enough, they'll move out of the area. We used to set up impromptu road blocks in lanes off Prince Albert and Broadway, maybe 4 or 5 of them on the south side. We would go to the lane just south of (those two streets) and to the east and west... we'd catch a lot of guys going around the block looking for hookers. We'd ticket them for seat belt violations or defects in their headlights or whatever. (Policewoman #2, Appendix 1, p. A-56)

Observing that the 1986 Task Force had not been particularly effective, one police commentator observed:

> The techniques used in the second year were much more confrontational -- the officers would tell the girls, "We don't want you here, what you're doing is illegal' and they did not allow them to continue working. They would take a patrol car, park on one corner, and walk down to another corner and stand there. Both those corners are ruined now from the girls' point of view, so she has to move. And the officers would move with them. The Task Force was really innovative. If there were seven officers working they would each take out a patrol car and park it on a Mount Pleasant corner, and then drive around in other cars. That kind of police presence is enough to scare away the average john, so nobody is going to work in front of a marked police unit because they're not going to get any business. These tactics had the effect of moving the girls back and forth, and ultimately out of the Mount Pleasant area. Whether the numbers of girls correspondingly increased downtown, I don't know. Sometimes we'd go downtown to take a look and it would be saturated with girls. (Mount Pleasant Liaison Team, Appendix 1, p. A-65)

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[37] Area 8, Map 7, Appendix 5.

It is precisely that kind of question that we will endeavor to answer in the second half of the report (see Section V A 3).

When asked about the tactics used by the Task Force to control the street trade in Mount Pleasant, prostitutes similarly held that the main effect of police presence on the street was that it scared away business and made work much more unpleasant than it would otherwise have been:

> It's just plain old harassment... They would jump out from behind bushes with flashlights and stop the car after a guy has picked me up. One of them will go around the driver's side and the other will come to my side and says, "Out of the car." Then they say to him, "What are you doing here? Does your wife know where you are? Does she know you're picking up prostitutes?" Then they tell us to go home. They hate us, the uniforms. (Female prostitute)

> It's harassment. They'll sit on us, they'll put their red and blues on us... I always carry a book with me and if they're going to sit on me, I'll sit right down and read a book to try and waste their time. (Female prostitute)

> They come by and they hassle you. They ask you "What are you doing? What's your name?" They don't arrest you or book you or anything. They just come by and bother you. Or they come and park right where you're working. (Female prostitute)

> They sit on the corner either in their cars or out of their cars. They pull people over for nothing to give them an excuse to be in the area harassing us. They're constantly circling. (Female prostitute)

> They've been stopping a lot of people lately. Right now you get your second warning for standing on the corner -- if they catch you a second time, they'll get you I.D.'d and all that. (Female prostitute)

One prostitute reported being charged for a variety of offences unrelated to prostitution by uniform officers:

> I have gotten littering, loitering not wearing a seat belt, and jaywalking tickets -- and there was one more; I can't remember what it was. I got a $25.00 fine for throwing a cigarette on the ground in Mount Pleasant. (Female prostitute)

In the Richards-Seymour area, in contrast, most prostitutes felt that the activities of police were of no real consequence to their business; others even maintained that police presence was desirable in that it provided a measure of protection, and generally there seemed to be less hostility to the police:

> Most (police officers) are OK. Not all of them, mind you -- I think they're under a lot of pressure from their superiors to put a lid on things. But often they'll just tell you, "There's a lot of Vice out there tonight, be careful." (Female prostitute)

> If I get beat up and have amnesia someplace, they can identify me through cards. They've got respect for us, they don't bother us that much. (Transsexual prostitute)

One young man working the Homer street area noted:

> They leave me alone. Once in a while they pop up and say "Hey you, mister, come over here." They tell me they know I'm a guy. (Transvestite prostitute)

One woman who usually worked in Strathcona had similarly experienced few problems with patrol police:

> I've never had problems with any of them. I've had one ask me not to be on ***** because there was a dude living up there who was going on and on about prostitutes. He was very nice. It was when I first turned out. He said, "Obviously you don't know about this." He was really nice. So I just said "OK" and moved. (Female prostitute)

Generally, it seems that the feelings of resentment toward police are not directed as much toward undercover police decoys involved in s.195.1 enforcement as they are to the officers involved in ancillary control activities. To this extent, prostitutes working in Mount Pleasant (and probably increasingly in Strathcona) are much more likely to make negative comments about police activities because they are much more the object of patrol policing than prostitutes in the Richards-Seymour stroll, where police presence is noticeable, but where there is no attempt to proactively move prostitutes out of the area.

Since statistics on the cost of Task Force activities have been made available to us, we present them below.

TABLE F
COSTS OF PROSTITUTION TASK FORCE (19 April 1987 to 3 October 1987)

Period of Operation:		
Personnel assigned:	Acting Corporal	0.46 years
	Six Constables	2.76 years
Salary Costs:		
Corporal (salary and benefits)		= $22,885
Constables		= $119,390
Court Costs:		
336 appearances (Estimated 50% on afternoon shift)		= 17,378
Total Estimated Cost		= $159,653

4. Enforcement of Ancillary Prostitution Laws Procuring, Living on the Avails and Bawdy House Laws

The figures we have been provided by Vice Intelligence Unit indicate that few resources in 1986 and 1987 were devoted to the investigation of ancillary prostitution laws:

	Procuring	L.O.A.P	Bawdy House
1986	0	1	2
1987	0	2	3

There never have been many charges in Vancouver in any given year for any of these offences, a reflection, in part, of the difficulty of enforcing procuring and living on the avails laws, and in part on the emphasis of law enforcement efforts. In the case of pimps, the Regional Crown Attorney commented:

> Should we find the "classic" pimp (i.e. that evil character that we commonly understand the "pimp" to be) we'll try to prosecute them with all our power. The reality is that the "classic" pimp is a rarity in Vancouver. (Regional Crown Counsel, Appendix 1, p. A-76)

Bawdy houses, while not the object of much police attention in 1986 and 1987 (several charges have been laid in 1988), are nevertheless an object of concern. Again police respondents indicate that the expenditure of manpower necessary to lay a charge does not seem to be warranted by the results that it gets in terms of sentences that are awarded:

> Bawdy houses take a lot of work and a lot of man hours and the end result is usually a fine -- a very small portion of what the people who run hotels where hookers work make per day. It's big business for these hotels. They're charging $10 to $15, sometimes $20 for a room per visit, a "short stay" as they call it. Then they can rent that room out 5 or 6 times per night. (Detective #2, Appendix 1, p. A-38)

For the time being, without any public pressure to spur them on, the police are likely to remain content with the odd bawdy house prosecution.

5. Controlling Escort Service Prostitution

In 1985 and 1986 the Vancouver newspapers devoted a considerable amount of attention to the successful prosecution of an escort agency owner in Victoria for several counts of procuring and living on the avails of prostitution. But the newspaper attention was not so much devoted to the fact that the prosecution was successful as to the investigative techniques (involving direct police observation of bedroom activities) that were used, and the local politicians who might have been subpoenaed to appear as witnesses for the prosecution. The fascinating issue in terms of the present evaluation is that it raises the question, where are prostitutes supposed to go to meet customers and carry out their business? The conviction of the Victoria escort service owner caused us to ask our police and Crown respondents to describe the current policy on the investigation of escort services in

Vancouver. To begin with, it was clear from the responses that we got, that nobody has any illusions about what kinds of services the average escort provides:

> Escort services are legalized prostitution. They know, and we know, it's prostitution... I don't think there's any secret about what escort services are about. there's very few people willing to spend $150 just to get someone to go out to dinner with them.. we know for a fact that escort services might have several hundred calls per day. And there are 20 or 30 girls working in each service, and they are being kept active. There can't be that many men out there who just want to talk to girls! (Detective #2, Appendix 1, p. A-38)

As to the present policy for investigating escort services, the same officer noted:

> The escort agencies do pose some problems. We know, for instance, that some women who work as prostitutes on the street or in clubs also work for escort agencies. The police concern with escort agencies is their lack of accountability or responsibility. We are gathering intelligence on escort agencies so that we can get a picture of the number of people they employ and ascertain the extent of their business.
>
> (T)he previous Mayor's catch phrase was, "Be discreet, don't use the street." So, what was he telling them and us? He was not saying, "You can't work." He was saying, "Just don't work on the street..."
>
> We couldn't do much, under present manpower, to get into other areas of prostitution anyway. We've been directed in the past to sort of leave well enough alone. From what I hear, to prosecute escort services you pretty well have to get permission through the Attorney General. (Detective #1, Appendix 1, p. A-24)

A Regional Crown Attorney conformed this attitude:

> (W)e're not encouraging those kinds of prosecutions... We have prosecuted some escort services. What we're really looking for in these circumstances are the more outlandish cases. Show me where they're using drugs, show me where there's some strong arm tactics, show me where there is an organized crime connection and we'll pursue it....
>
> Until we have a lot of complaints ... about something like an escort service, until you see something that's pretty unusual, then we're not encouraging prosecutions in those areas. Having said this it should be recognized that there have been and still are a number of on-going investigations into the practices of escort services. We are always gathering information. (Regional Crown Counsel, Appendix 1, p. A-76)

What we see from these comments is that when prostitution does operate without much police interference, it only does so by virtue of the selective enforcement of Canadian prostitution laws.

V. IMPACT OF S.195.1 ON THE PROSTITUTION TRADE

A. COUNTS OF STREET PROSTITUTES

The analysis of the effects of s.195.1 begins by describing the results of the simplest and probably the most telling measurement of the impact of s.195.1 on Vancouver's street prostitution trade -- the head counts of street prostitutes and customers. Our analysis is restricted to an examination of counts of prostitutes since so few tricks were observed during our traverses of the prostitution strolls that it would be difficult to draw any conclusions from the findings.

The results of the head counts are presented in graphic form in Appendix 5 (Maps of Vancouver prostitution strolls) and Appendix 9 (Figures 3 through 13). Map 1 depicts Vancouver's Planning Districts -- it serves as a rough guide to the locations of the Vancouver neighborhoods and commercial areas where street prostitution is practiced. Map 2 shows the location of the base maps used for head counts of prostitutes and tricks in the 1984 Vancouver Field Survey and in the present report (Maps 8a through 25c). Maps 3 through 7 depict the location of Vancouver's prostitution strolls for various time periods since 1972 (the reasons for the metamorphosis of patterns of street prostitution prior to 1984 are discussed in Section VII). Maps 8 through 11 depict the location of Vancouver prostitution strolls in 1984 before and after the laying of a civil nuisance injunction that displaced prostitutes from the West End. Maps 12 through 14 depict the location of the strolls before and after the establishment in October 1985 of what media commentators referred to as an informal "red light district" in Mount Pleasant. Maps 15 through 25 depict the number of working prostitutes in the three main strolls at various times since the enactment of Bill C-49 in December 1985.

1. Daily and Weekly Activity Profiles

In order to ascertain if s.195.1 enforcement affected levels of street prostitution activity through the day, we conducted three sets of 12 counts starting every second hour from six a.m. Thursday morning to four a.m. the following morning.

The overall average 24 hour count shows the same general pattern as the 1984 counts described in the Vancouver Field Study (Lowman, 1984, p. 358) to the extent that the peak period of activity -- 6.00 p.m. to 2.00 a.m. -- is the same, although prostitution seems to be more spread out through the day now than it was in 1984, especially in Strathcona (Figure 11). In 1984 there was a general absence of street activity between 8.00 a.m. and 12.00 mid day; now in Strathcona (the area of most intensive s.195.1 enforcement since the summer of 1987) it is constant.[1] It appears from these figures that a form of temporal displacement occurred, as some prostitutes worked around the period of peak s.195.1 enforcement in the hope of avoiding police decoys. This hypothesis is confirmed by our interview subjects, 51.2% of whom said that they adjusted their working hours in response to enforcement patterns (Tables 86 and 87, Appendix 4).

To get some indication of levels of street prostitution activity through the week we conducted three sets of seven daily counts between 10.00 p.m. and 12.00 midnight (in June, September, and November 1987). One wonders what effect the knowledge that the s.195.1 enforcement team does not work on the weekends would have on levels of street prostitution through the week (indeed, one cannot rule out the possibility that such an effect has already occurred). Similarly, one can only wonder if the occurrence on Monday of the highest average count of street prostitutes during the week has anything to do with the fact that Monday is also the weekday during which the lowest number of charges have been laid (Figure 14).

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[1] Unfortunately, since the 1984 daily profile counts did not include counts at 4.00 a.m. and 6.00 a.m. a complete comparison cannot be made.

2. Temporal Trends: Monthly Averages

Figure 3 depicts counts of street prostitutes between April 1985 and March 1988. Figure 5 includes the same data plotted alongside the results of counts reported in the Vancouver Field Study (Lowman, 1984, p. 363).[2] Table G depicts the average weekly counts for various months in which more than two counts were completed between March 1984 and March 1988.

TABLE G

WEEKLY COUNTS:
Average Number of Prostitutes Counted Each Month, 10.00 p.m. to Midnight Each Thursday[3]

	1984	1985	1986	1987	1988
January	--	--	10.25	37.0	51.0
February	--	--	16.9	33.75	44.5
March	58.6	--	18.5	56.5	43.3
April	51.5	49.0	25.75	57.2	
May	65.18	44.0	18.75	50.0	
June	66.8	39.0	26.5	55.25	
July	--	--	27.75	56.0	
August	--	--	12.0	57.6	
September	--	--	--	61.25	
October	--	54.1	--	58.2	
November	--	48.0	43.9	50.75	
December	--	22.0	36.5	42.2	
MEAN	60.5	42.7	23.7	47.3	46.3
APRIL-MAY-JUNE MEAN	61.2	44.0	23.6	54.2	

According to Figures 3 and 5, enforcement of s.195.1 did appear, during the first eight months of its existence, to have had a significant impact on the incidence of street prostitution in Vancouver. But Figure 3 indicates that after the fall of 1986, the number of persons working the street gradually increased so that by the summer of 1987 the average number on any given night had reached pre Bill C-49 levels. The average counts for April, May and June 1987 were 126% higher than the counts made during the equivalent three month period in 1986.

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[2] The 1982-1984 data is drawn from two sources: data for the period November 1982 to February 1984 were provided by the Vancouver Police Department Vice Squad. Data for the period March to June 1984 were collected for the Vancouver Field Study (Lowman, 1984).

[3] With the exception of 1984 counts which were conducted on a variety of weekdays (Lowman, 1984, pp. 762-764); only those 1984 counts made between 10.00 p.m. and midnight were included in this analysis.

We have computed the April-May-June means because these are the only three months for which weekly counts were conducted for each year from 1984 through to 1987. Given that there is an incomplete complement of counts in some years, by comparing the changes in these months only, the effect of possible seasonal variations in the numbers of persons working the street on the overall yearly averages can be avoided.[4] A comparison of these means shows that in 1986, the first year of s.195.1 enforcement, the average number of prostitutes working the streets, according to our counts, was 44.7% less than in 1985, and 61% less than in 1984 (it is worth noting in passing that the 1985 average was 28% less than the 1984 figure, a reduction that seems to have occurred for reasons entirely unrelated to law enforcement). In contrast, in 1987, the monthly average count once again increased to the point where it was 23% higher than the 1985 figure, and only 11% below the 1984 average.

Bill C-49 does appear, then, to have had an effect on levels of street prostitution in Vancouver but, in overall terms, it was an effect that was relatively short lived. Of course it is impossible to know if levels of street prostitution would have been higher in 1987 than they actually were had Bill C-49 not been enacted, but presumably for those persons who had hoped that the new law would eradicate the street prostitution trade altogether, such deliberations about the niceties of interpreting trends in time series data would probably be deemed irrelevant. One is left only being able to speculate about the effects of other factors (such as AIDS, changes in economic conditions, etc.) on trends in levels of prostitution.

To an observer who had hoped that s.195.1 would facilitate the reduction of street prostitution only in certain types of areas these overall trends are not as important as the differential effects of s.195.1 enforcement in Vancouver's three prostitution strolls. To assess the geographic impact of s.195.1 we examine fluctuations in levels of street prostitution in different areas of the city.

3. Spatial Patterns

It was noted earlier (Section IV B 5) that an important shift occurred in the emphasis of s.195.1 enforcement through 1987. Table C shows that up to February 1987, the main focus of enforcement had been Mount Pleasant where 53% of all charges were laid -- but where, according to our head counts, only 38.75% of street prostitutes worked. While nearly 50% of the counted prostitutes worked in the Richards-Seymour area, only 30% of charges were laid in this area up to February 1987 (partly a reflection of the fact that the police rarely enforce s.195.1 against tricks in this area, and partly because this is a *commercial* district where prostitutes are less likely to get charged than their counterparts in *residential* Mount Pleasant; see Table 2 Appendix 3). Table D indicates that for much of the period after February 1987 the emphasis of enforcement shifted from Mount Pleasant to Strathcona (where prostitutes had moved from their pre Bill C-49 location in a commercial area on the edge of Chinatown -- Area 4, Maps 5 and 7 -- into a residential district; Area 7, Map 7);[5] after February that year the percentage of charges laid in Strathcona had increased to 45.6% of the total, the number in Mount Pleasant had dropped to 24.7%, while the number in Richards-Seymour remained at 30% despite the increase of street prostitution in that area in 1987 (according to our counts) to almost three times the 1986 level (Figure 4). To some extent, these changes in the emphasis of enforcement do mirror changes in the number of prostitutes working the three strolls. The question is, how much do they cause these population changes?

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[4] Figure 5 suggests that there is some seasonal variation in levels of street prostitution -- the number of persons working the street increases in the summer. A preponderance of counts in either the winter or summer months could thus artificially inflate or deflate a particular yearly average.

Up to February 1987 s.195.1 enforcement efforts were concentrated in Mount Pleasant. Figure 3 indicates that the number of persons working in the area gradually increased through 1986, despite constant s.195.1 prosecutions and a special Task Force of uniform officers working in the area to identify and gather intelligence on prostitutes. The highest levels of activity were recorded in March and April 1987. Then the second Mount Pleasant Prostitution Task Force was instituted, and it seems to be that initiative which has had the greatest impact on patterns of prostitution in Vancouver since the enactment of Bill C-49. After April, head counts indicated that fewer and fewer prostitutes worked in Mount Pleasant. Numbers remained suppressed after the dissolution of the Task Force in October 1987, perhaps because much of the activity of patrol police in Mount Pleasant is still geared towards keeping the pressure on prostitutes and tricks to stay out of the area (i.e. the impression of constant harassment of prostitutes and tricks initiated by the Task Force is being sustained by uniform patrol police). The question remains whether prostitutes will continue to stay out of the Mount Pleasant if the policing effort is relaxed in any way.[6]

Given the significant reduction of prostitutes in the area, it is not surprising that the proportion of charges laid in Mount Pleasant declined in the latter part of 1987. It appears, however, that the main effect of the Task Force was not to reduce the overall incidence of street prostitution, but to displace it from area to area. Thus during the period of Task Force activities our overall counts -- which declined from January to March 1987 -- increased in April and May, and did not decline again until the following winter (a seasonal fluctuation that also occurred in the winters of 1982-3, and 1983-4; see Figure 5). In contrast, Figure 4 shows that the proportion of prostitutes on the streets of Mount Pleasant declined substantially after April 1987. Figure 9 shows the population of prostitutes in Mount Pleasant as compared to the other two strolls. The trends closely match each other until April 1987 when they go in opposite directions. In combination, the data presented in Figures 3, 5 and 9 would seem to emphatically demonstrate that the main effect of the Task Force (perhaps in combination with differential s.195.1 enforcement) was to displace prostitutes rather than suppressing the overall level of street prostitution activity in Vancouver (see Maps 15a through 25c for a graphic illustration of changing volumes and patterns of prostitution in the three main strolls since the enactment of Bill C-49).

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[5] The reasons for the movement of prostitutes from the (largely commercial) area used in the 1970s are discussed in Section V A 3b and VI 5. We suggest that bail and probation area restrictions served to enlarge the area worked by Mount Pleasant prostitutes, but such does not seem to be the case in the changing geography of the Strathcona stroll. In that area changes in the geography of the stroll do not correspond to the boundaries of area restrictions applied to prostitutes charged in Strathcona. One social worker from the area suggested that prostitutes moved east of the traditional stroll to avoid problems with Asian gangs active in Chinatown. Over the past two years the gangs have drawn a considerable amount of media and police attention. As far as we have been able to ascertain, they are not (as yet) involved in street prostitution.

[6] We have just learned that after an increase in the number of prostitutes working in Mount Pleasant during the Spring of 1988 the Task Force was reconvened in June. Immediately afterwards, the number of prostitutes counted in Strathcona again increased.

As the number of prostitutes in Strathcona sharply increased in May 1987, and particularly because the stroll had migrated from its 1970s location into a residential district containing a school, the police administration's concern about prostitution in Strathcona, fueled by a wave of resident complaints, was translated into a shift of s.195.1 enforcement emphasis from Mount Pleasant to Strathcona.

It is difficult to tell what effect the increased level of enforcement in Strathcona has had, though it is tempting to conclude from our counts that it is not much. The counts remained fairly constant until October, then they dropped -- but it is difficult to know if this is a seasonal effect, the result of increased s.195.1 enforcement, or some other factor. It is worth noting that without a corresponding increase in s.195.1 enforcement in the Richards-Seymour stroll the number of prostitutes counted in that area also dropped in the winter of 1987-8 (Figure 3).

a) Effects of the Mount Pleasant Prostitution Task Force

In our interviews with criminal justice system personnel, we were particularly interested in ascertaining our subjects' opinions as to whether it was s.195.1 enforcement, the Prostitution Task Force, or a combination of the two that suppressed street prostitution in Mount Pleasant during and after the summer of 1987. The weight of opinion was that the Task Force had been the decisive factor. As one police officer reasoned:

> You don't control (prostitution) patterns by enforcing s.195.1. You're only arresting maybe 2 or 3 girls from a certain area a night. You're undercover the whole time; it's not an overt action. An undercover operator picks up a girl, drives away, and the other women working, they have no idea she's been arrested or charged or anything. (Detective #1, Appendix 1, p. A-23)

Similarly, another officer explained:

> The Task Force was effective in that it physically moved the girls. More importantly it gave a sense of well-being to the neighborhood... Its success was a matter of police presence -- uniforms on the street... (W)hen you put seven officers out for a 10 hour shift, they can cover a lot of territory. It's easy to displace prostitutes. You drive up to where they are working and you sit there. After five minutes, the prostitute is gone. When you enforce Section 195.1, it takes 3 or 4 policemen to do a single charge, and it takes a long time... You can only charge a handful of people in a given night. Your visible impact is a lot less in terms of resources expended... (Mount Pleasant Liaison Team, Appendix 1, p. A-65)

While it would appear that the activities of the Task Force, and not enforcement of s.195.1, was responsible for reducing levels of street prostitution in Mount Pleasant, this success reflects the fact that, unlike s.195.1 which is enforced (even if differentially) against prostitutes in all three prostitution strolls, the task force only operated in Mount Pleasant, and was thus able to push street activity into the other two areas. Street prostitution settles into the areas of least resistance. The question is whether Strathcona will remain one of the areas of least resistance. Already it seems that it will not as the increasing emphasis of s.195.1 enforcement in Strathcona bespeaks increasing pressure from local residents to oust prostitutes. But, unlike Mount Pleasant, it is an area where for much of this century prostitution has been tolerated by police and residents alike. We return to the nature of this differential neighborhood response to prostitution in Section VI 5.

While the Task Force seems to have played the main role in reducing street prostitution in Mount Pleasant, it should be acknowledged that Task Force activities themselves cannot be understood outside the context of Bill C-49. Given that police feel that the revision of s.195.1 made clear the Legislature's intent to treat as criminal the public activities of street prostitutes and their customers, they feel that Task Force tactics -- the differential application of traffic and a variety of public order laws to control street prostitution, and direct confrontation with prostitutes and tricks -- are justifiable. Similarly, such tactics must seem reasonable to local politicians given the constant media attention paid to street prostitution and the activities of the two Mount Pleasant anti street prostitution lobby groups who, despite the enactment of Bill C-49 and on-going enforcement of s.195.1, once again took to the streets in the fall of 1986 and spring of 1987 to openly confront prostitutes.[7]

b) Effects of Area Restrictions

Having concluded that the Mount Pleasant Task Force served mainly to relocate street prostitution, this seemed to be the appropriate point in the Report to discuss the perceived effects of area restrictions on the activities of street prostitutes. In some ways, the application and impact of area restrictions serve as a microcosm of the contemporary deployment of law enforcement resources against Vancouver's prostitution trade more generally, to the extent that when there is an impact at all it seems to be primarily geographic. Most of our commentators were either ambivalent about area restrictions, or they thought that they served no useful purpose at all. On the positive side, area restrictions were thought to have some deterrent effect:

> The positive effect of area restrictions is that they do discourage the accused from entering an area where he or she plies their trade. That would be especially beneficial in the case of juveniles. When juveniles breach area restrictions, they can be charged and taken into custody. (Vice Squad Administrator, Appendix 1, p. A-11)

But if area restrictions discourage a person from working in one area, they do so at the price of encouraging them to work elsewhere. Thus if area restrictions were to be effective, the general opinion of police was that they had to be large enough to prevent displacement of prostitutes within Vancouver -- i.e. "large enough" generally meant the whole of Vancouver. Thus the area restrictions which had actually been imposed by the courts were criticized as either displacing prostitutes from one stroll to another, or to areas adjacent to the court established boundaries of the restrictions. Referring to the Mount Pleasant area, one Police Liaison Team officer observed:

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[7] See the interview with representatives of the Mount Pleasant Action, Appendix 1, pp. A-179-181.

> The problem with the area restrictions is that they were not large enough -- girls started working along the edges of them in Mount Pleasant still along the Broadway strip but just outside the limit of the area restriction; they went east of Clark to Commercial. For whatever reason, the Mount Pleasant area restriction boundary adopted by judges was Clark drive. Geographically that is the boundary of Mount Pleasant, but it is not the boundary of the Broadway prostitution strip. You have to take into account the search patterns of the johns. You have to implement area restrictions that include the tricks' search patterns. In other words, the area restrictions have to be large enough that the girls can't just move down the road a couple blocks.
>
> There are advantages there and disadvantages to area restrictions. It is difficult to get large area restrictions. It would be nice to have an area restriction for the whole of the city of Vancouver, but the courts have been reluctant to do that. They did give a couple of Vancouver wide area restrictions.[8] (M.P.L.T. Appendix 1, p.66)

A vice squad detective suggested that it was precisely this kind of problem that caused some judges to eschew area restrictions altogether as a viable control device:

> (A)rea restrictions covering Mount Pleasant only extended as far as Clark Drive, the eastern boundary of Mount Pleasant. After those restrictions came into effect, we saw prostitution move steadily eastwards out of Mount Pleasant. It is because of this kind of effect that some judges will not impose area restrictions. (Vice Squad Administrator, Appendix 1, p. A-11)

In a similar vein, another vice squad detective noted:

> A lot of judges have come to feel that area restrictions serve no practical purpose. If you put an area restriction on a girl, let's say as a term of her probation, she's going to work anyway. So either she's going to work in the area where she's not supposed to or she's going to move somewhere else. But she's still going to be working in Vancouver. If she has no intention of going on the street, then of course, you don't need an area restriction.
>
> *(Do you agree with that logic?)*
>
> Only to some degree. Certain individuals would not work anywhere, but the area where they were charged. For instance, certain Seymour girls would not think of working in the skids. They would give prostitution up before working elsewhere. So if you gave them an area restriction it might be effective. (Detective #1, Appendix 1, p. A-18)

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[8] We presume that the reason that judges, even if they will impose area restrictions, will not make them city-wide is that most prostitutes live in Vancouver (Table 11, Appendix 3 indicates that 89.3% of the prostitutes charged in Vancouver for whom we could obtain the information lived in the city). For such defendants, area restrictions would be tantamount to banishment and would probably cause displacement on a larger scale.

Nevertheless, despite this feeling that area restrictions might serve to control some women, many of our respondents thought that their overall effect has been to enlarge the areas where prostitutes work:

> (The) areas have been enlarging and (as prostitutes work) a block outside of their area restrictions prostitution spreads a little further and a little further. We've stopped girls who are working on Hastings street as far out as Nanaimo and the Kootenay bus loop a block from Burnaby. At times, I've talked to girls who are working at 1st and Commercial. They work areas in between the strolls, on their way here, and on their way there. Maybe they work in an unusual location for a week or 10 days and go completely unnoticed by the police department.
>
> I think area restrictions in that sense are spreading the problem all over the city. I'd rather see the problem in one place. (Policewoman #2, Appendix 1, 58)

In accordance with these statements, a Strathcona social worker commented:

> The Strathcona stroll area used to be confined to the Union/Gore/Keefer area. Then the Vietnamese gangs came and put pressure on the working women. They all shifted east a bit and then there was pressure from the Asian community again, but this time not from the gangs; it was the straight citizens saying that you can't work around our kids, our school. So they move over to Commercial Street. Then they moved out along Hastings. Now we've got them all the way up to Clark. Most likely up to Commercial at some point. All these influences have been compounded by the area restrictions.
>
> What we've basically done is elongated the area. Now, it's literally a mile long strip of East Hastings. People will start tricking all the way along there. They're not going to drive back to one specific point to turn their tricks. They'll do whatever's convenient. So you've basically expanded not only the soliciting area, but also the area where they're going to carry out the actual sexual act.
>
> The larger the area gets, the less manageable it becomes, and the less serviceable when it comes to street work, social services, and police. Basically, you've defeated the purpose of keeping the people out of the residential zones because when you move women from a familiar space to a new space, it's a new ball game. So they'll breach any of the unwritten rules or laws or regulations of that new community -- they don't know them and they don't give a shit about them because they don't live, work, consume there or anything. They're just there to turn a trick. (Street Worker #1, Appendix 1, p. A-110)

Our head counts of prostitutes through 1986 confirm this account of the movement of the Strathcona prostitution stroll from the commercial area where it was located since World War 2 period to a mainly residential area immediately to the east (i.e. from area 4 to area 7 on Map 7.)[9] It does not appear that law enforcement patterns or court orders had much to do with the vacation of the streets of Chinatown, although the Mount Pleasant Task Force in 1987 certainly contributed to the enlargement of the new area as prostitutes were displaced from Mount Pleasant.

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[9] Prior to the War, this residential area was home to some of the main east side bawdy house, gambling and bootlegging establishments.

A Vice Squad officer offered the following comments on the expansion of the Strathcona stroll:

> I think there's two reasons (for changes in the Strathcona stroll). Number one, there's an influx of girls from Mount Pleasant. The numbers I think are increasing. Number two, the skid road area (Columbia-Hastings)[10] is a dangerous place to work. You'd have to be a fairly desperate woman to work down there.
>
> So they move further and further away. As johns are trained to go to a given area, once you've started the pattern going, then that area can expand. But you have to have a nucleus. We've seen that everywhere. A few girls will congregate in a certain area, the johns will start to show up and from there they'll start to spread out as more and more girls move into the area.
>
> The only exception is Seymour, where the prostitutes seem to be willing to stand 15 abreast and keep it confined basically to a two block area. (Detective #2, Appendix 1, p. A-36)

One particularly pertinent aspect of these comments is the observation that Strathcona prostitutes will resist displacement into the non-residential skid road area where the lowest class prostitutes in Vancouver operate. One wonders where Strathcona prostitution would move to if the police efforts in Mount Pleasant were to be duplicated in Strathcona.

When it came to the effect of area restrictions on prostitutes, the comments of both our Strathcona street worker respondents from that area were particularly caustic:

> The area restrictions are one of the most ridiculous aspects of this law. When somebody gets busted uptown (Richards and Seymour) they get an area restriction there. Then they go to Mount Pleasant, they get busted again, and they get an area restriction there. The last place they ever get an area restriction from is this area, skid row; this is the bottom of the barrel. They're forced down here. And then the territorial problems start between the people on the street because there's too many people and too few corners. Then people breach their area restrictions and the courts get swamped with people in breach of their undertaking and violating their area restrictions. It just goes on and on. (Street Worker #1, Appendix 1, pp. A-109-110)

The problem this influx of new people has presented for management of the Strathcona stroll -- where up to the time of writing residents bothered by prostitution have resisted the kind of confrontational tactics and exclusionary politics advocated by groups first in the West End and later Mount Pleasant -- is that people new to the area are not familiar with the tacit agreement that had been reached between prostitutes and some of the residents and patrol police in the area about where prostitutes should work (see Section VI 5):

> (W)e get new people down here who don't know the neighborhood rules. Our regular people won't work around the school or on certain streets, but then all of a sudden these new people are forced in and they don't know the game plan down here and so they'll violate certain unwritten rules. So then there's a lot more friction. (Street Worker #1, Appendix 1, p. A-110)

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[10] Area 3, Map 7.

Paradoxically, when area restrictions are applied to prostitutes working in Mount Pleasant, social workers are confronted by another set of problems:

> A lot people are forced out of the area by area restrictions. That creates real problems for us. Say you've got a client who gets an area restriction. You're been working with this person and all of a sudden they get an area restriction and can't come into the area. Great; at last you'd made a relationship with a person, started to provide some kind of service, and all of a sudden they've got an area restriction, and move up to Seymour or Mount Pleasant to work and all your work is down the tube.
>
> That's the most frustrating situation to be in -- you can't run uptown or up to Mount Pleasant in pursuit of your clients. What happens is that people get barred from the one area they do get service; they're not allowed access to the service any more because of area restrictions. (Street Worker #1, Appendix 1, p. A-111)

The movement of prostitutes between strolls can also change the character of prostitution in an area like Strathcona:

> I'd say there's between 15 and 20 kids now active in the Downtown East Side who moved here from the Mount Pleasant area. There are others who have moved here from up town (Richards and Seymour) as well.
>
> *Do these youths bring different types of problems with them?*
>
> Yes, they bring their "boyfriends" with them -- we call them "popcorn pimps." They are really lightweight individuals in terms of what we are used to in the Downtown East Side area. The popcorn pimps come here and try to get the women to work for them. They're not welcome in this community by some of the older and heavier street people. The popcorn pimps get involved in a lot of drug dealing down here. As a rule, that doesn't last very long, but their involvement with women working the streets does.
>
> So from what we've seen so far, there's a movement of some people from outside of the community -- particularly Mount Pleasant and the Richards Seymour area -- into the Downtown East Side. One of the things that this new population has discovered is that "mardi gras" -- welfare issue day -- is a really good day to do business. Their kind of "business" includes rolling a lot of the old-timers in the lanes. The police are seeing a lot more of those crimes. They originally had a group that they could keep their eye on because they knew from past experience who was rolling the old-timers. Now we've got new people in the community. I don't know the numbers in terms of the Granville Mall types and Mount Pleasant people who have moved in here, but I know it's significant; its probably somewhere between 20 and 30 guys. (Street Worker #2, Appendix 1, p.119)

According to other commentators area restrictions are responsible for moving prostitutes into unfamiliar, and sometimes more dangerous environments. One social worker believed that when youths move into Strathcona they are exposed to the most dangerous street scene in Vancouver:

> I think (area restrictions) have introduced kids to other parts of the city which they previously might not have explored. A lot of kids have ended up moving into the Downtown East Side which, in my opinion, is the most dangerous area of the city in which to work -- there are lots of bad tricks down there. When they work in that area, they have the most trouble with

> violence, with threats and with other problems. (E.S. Worker Appendix 1, pp.131-132)

The comments of representatives of Prostitutes and Other Women for Equal Rights fully support this point of view:

> One of the things we noticed was that when the kids were being busted in the Davie Street area between Seymour and Homer, without exception, every one of the kids got area restrictions.
>
> So that meant that they could not go down into that area at any time of the day or night, otherwise they would be picked up for breach of a court order. So the kids were moved into the Chinatown area. In the Davie Street area they had cocaine and they had marijuana. When they got into the Chinatown area, they had the T's and R's (Talwin and Ritalin), prescription drugs which in our estimation are far worse drugs to be taking than coke and grass. We were getting to see kids that were more strung out, more non-functional, using more needles, and were in a lot more trouble than they had been when they were in the Davie Street area. As a result of this kind of change, kids are going downhill fast. (POWER, Appendix 1, p. A-200)

But this was not the only sense in which these women thought that area restrictions proved hazardous to prostitutes:

> ...the area restrictions make it more dangerous for women. In our opinion more than one woman has been killed as a result of area restrictions. There was a woman who was busted twice in the Richards Seymour area; she got an area restriction for the city of Vancouver. So she moved out to Surrey and she tried to work hitch-hiking in Surrey on King George Highway. Her body was found in Surrey. If this woman hadn't got the area restriction she would not have had to move out to Surrey, and for all we know, she might still be alive. (POWER, Appendix 1, p. A-200)

Finally, one observer made a comment on the whole operation of s.195.1 that resonates throughout the commentaries of our various respondents; no matter what the positive effects of any legal strategy aiming to control prostitution, it is severely compromised if there is any kind of inconsistency in the way different offenders are treated:

> There hasn't been any consistency in enforcement of the law, as far as I can tell, even within Vancouver... As far as even being consistent on area restrictions, the courts create a crap shoot... Because of the inconsistencies in the way the criminal justice system uses area restrictions and the like it is difficult to tell what the effects are. Whether it's probation officers, the Crown or judges there isn't any consistency. (Outreach Worker #1, Appendix 1, p.136)

Our study of cases indicates that while area restrictions are used quite extensively in the case of probation orders for youths (84% received probation orders of which 78% included area restrictions), they are used less frequently in the case of adults -- probation orders were issued to 106 of 211 adult prostitutes for whom complete sentence information is available (Table 40, Appendix 3) of which 46 (43%) included area restrictions (Table 46). Thus 21.8% of sentenced adult prostitutes received area restrictions as part of their sentence. It must be difficult for the subjects of the criminal justice process to understand the vagaries of its operations, and the inconsistency with which requirements such as area restrictions are applied. Because area restrictions were applied with equal regularity to persons charged in the Richards-Seymour area as compared to Mount Pleasant (Table 47) they can hardly be said to have contributed to the overall goal of moving prostitutes out of residential areas -- indeed, that was obviously not the intention of the judiciary in employing such restrictions in the first place.

Just what the role of area restrictions is or should be in relation to prostitution law is a subject that we do not wish to address at this point, since ultimately we think that the data presented in this report recommend a different legislative approach to prostitution altogether. Nevertheless, it seems from the above observations that because area restrictions are imposed haphazardly without any careful consideration of how court imposed orders mesh with the overall objectives of s.195.1 enforcement, especially when different elements of the system have quite different visions of what those objectives should be, the imposition of area restrictions is likely to continue to produce contradictory results. Even if area restrictions were to be used by judges consistently, their main impact would be geographic, a brush to help sweep street prostitution from area to area; only in rare cases does it seem that area restrictions would deter a person from working at all.

Only if area restrictions are used differentially on a geographic basis will they produce any consistent results. But then, of course, the key question still remains -- where should prostitution be located?

B. A PROFILE OF PROSTITUTION IN VANCOUVER SINCE THE ENACTMENT OF BILL C-49

1. The Off-Street Prostitution Trade

If tricks can afford to pay generally higher prices, there are a variety of ways that they can meet prostitutes in Vancouver without having to pick them up on the street. The two major forms of off-street prostitution are escort services and the bar and club trade. Some massage parlors are fronts for prostitution services, and we have learned of at least one lingerie outcall sales service that functions in the same way (suggesting that if any city council decides not to re-license escort services it is likely that prostitution would simply re-appear under a new guise). It is possible that some male prostitutes still frequent steam baths and other locations, and several local gay clubs. Also, prostitutes advertise individually in a variety of publications, particularly one Vancouver periodical which is devoted to advertisements for sex partners, some of whom appear to require payment for services rendered (a speculation confirmed by our prostitute interview subjects, several of whom advertised in this publication).

From our observations, it would appear that the escort service business and prostitution in bars, clubs and hotel lounges is at least as big, if not much bigger than the street prostitution trade.[11] On those nights we conducted head counts of prostitutes in the five bars and clubs that we know of where prostitutes meet tricks, there were as many people working in these off-street locations (varying from five to twenty people in each place) as on the street. Some of the women and men who work bars also work the street, although a substantial proportion of them do not work on the street at all. And, of course, the bar and club business is confined to the evening hours whereas street prostitutes operate around the clock. But then so do escorts, and if only ten women worked for each of the twenty-five services that were advertised in the Vancouver Yellow Pages in 1987 there would be about 250 of them on call at any given time.

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[11] It is difficult to know how many women operate independently as "call girls" or kept women since this type of activity is so exclusive that we have not been able to gain access to much information about it.

From the prostitute's point of view the advantage of the escort agency is that it is a convenient and discrete way of meeting tricks largely devoid of hassles with the police. It is safer than street prostitution. Generally, escort agency prostitutes are much less susceptible to "bad tricks" than their counterparts on the street to the extent that they are monitored to some extent by a third party. Some of the disadvantages of the agencies are that the prices of services are much higher than in bars or on the street, thus limiting the supply of potential tricks. And in contrast to the situation in bars and on the street, tricks phoning escort agencies do not have the opportunity to select which prostitute they are going to patronize.

We provide a description of the off-street prostitution trade in Appendix 12 using excerpts from transcripts of interviews with prostitutes to paint a portrait of bar and escort service prostitution in Vancouver. We attempt to guage the impact of Bill C-49 on the off-street prostitution trade by examining levels of advertising for sexual services in newspapers and other publications.

2. Measuring the Off-Street Trade: Advertising Sex

Generally, we have been unable to secure any dependable information on the magnitude of the off-street prostitution business in Vancouver. Consequently, it has not been possible to determine in any reliable way if marked changes have occurred in the character or volume of that trade since the enactment of Bill C-49. In lieu of a more direct measure of off-street activity, we have examined patterns of advertising for various different types of what appear to be (or include) off-street commercial sex services.

As far as we can ascertain, the most significant component of the off-street prostitution trade in Vancouver is provided by escort services.[12] Figure 15, depicting the number of advertisements for escort services appearing in the Vancouver telephone Yellow Pages between 1965 and 1987, suggests that the main expansion of this business occurred after 1981. Figure 16, the average number of escort service advertisements appearing in the Vancouver Sun each year from 1970 to 1987, reveals the same pattern of growth, although in this case the peak number of ads was in 1986, the year after the enactment of Bill C-49. In the case of both the Sun and Yellow Pages, the number of ads dropped in 1987.

It is worth noting in passing that according to these figures, escort agency prostitution in Vancouver experienced its main growth in the early 1980s, a time when street prostitution was supposed to be getting out of control because of the failure of the first version of s.195.1 to contain it. Our findings would seem to run counter to the idea that prostitution was "spilling onto the streets" at this time; rather it would seem to suggest that this was a period of considerable expansion of the Vancouver sex trade which may have had little to do with the success or failure of the first version of. s.195.1.

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[12] The various bars, lounges and clubs that we know of where prostitutes meet clients probably constitute the second largest component of the off-street trade.

Figure 17 depicts the average number of escort service ads in the Sun each month between January 1985 and December 1987. These data indicate that in 1986, the average number of ads doubled immediately after the enactment of Bill C-49, but by 1987, returned to pre Bill C-49 enactment levels.

It is tempting to draw strong conclusions from the inverse relationship between the average numbers of prostitutes we counted on the street each month (Figure 3) and the average number of ads for escort services advertised in the Sun (Figure 17). The surge of escort service advertising in the Vancouver Sun in 1986 probably does reflect the extra demand *anticipated* to arise from police action against the street prostitution trade. Perhaps the gradual fall off in the number of advertisements after 1986 indicates that the anticipated increase in demand either never materialized, or was short-lived. These effects would not be noticeable in the Yellow Pages because it is only published once a year.

We do not know if the number of ads is a reliable index of the volume of the escort trade in the short run, although there can be no doubt that escort prostitution has expanded considerably through the 1980s. One of our interview subjects reported that the owners of the company for which she worked would sometimes run four phones lines into the same office, each under the name of a different service (with a half page add in the telephone Yellow Pages advertising it), but all of them were answered by the same receptionist. Nevertheless, the fact that certain services can afford to sustain as many as four half-page ads in the Yellow Pages (which in 1988 would cost a little under $11,000 per annum each), go through the expense of establishing the companies, and finance on-going advertising of them in both daily newspapers and several other publications attests to the general profitability of the business.[13]

It is difficult to know how many of the massage services advertised in the Sun (Figure 16) have anything to do with prostitution, but there are only a few ads, and the number shows no change in relation to the enactment of Bill C-49. Similarly, there are only a handful of dating services advertised (Figure 16), and again changes in the number of ads do not seem to be related to Bill C-49.

Similarly, when it came to the sex advertising periodical that we refer to here by the fictitious name "Sex Partners," it is difficult to know what percentage of entries involve commercial sex. Table H, however, indicates that even when it comes to the advertisements that we identified as probably being placed by prostitutes (those seeking "generous" respondents; such ads accounted for 74% of all ads placed by females)[14] there was a slight reduction in the average monthly number of females after the enactment of Bill C-49. In the case of males, there was an increase in the number of ads, but the numbers are so small that we do not feel justified in concluding anything from them.

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[13] In 1984 there were only two half page ads, but in 1985 there were 15 (there were 37 escort services advertised that year -- the highest ever in Vancouver). In 1987, the number of ads had reduced to 25, but they were lavish, and fully occupied 9 pages of the telephone directory (an average of just under three ads per page). Thirteen of the 25 services paid for half page ads. The only other categories that we could find in the Yellow Pages which had such a large average advertisement size were emergency drain and sewer services, and car transmission repair services. Movers, painting contractors, pizza makers, plumbers, tool renters, roofers, towing companies, window makers, business schools and take out Chinese restaurants also often use large (quarter page or more) advertisements.

[14] In contrast, only 9% of the ads placed by males required respondents to be "generous." Females placed 35% of the total number of ads, transsexuals 8%, and males 57%.

TABLE H

PERSONS PLACING ADVERTISEMENTS FOR SEXUAL COMPANIONS IN "SEX PARTNER," A LOCAL VANCOUVER SEX ADVERTISING MAGAZINE (Mean # Per Monthly Edition)

	1985	1986	1987
Female Heterosexual	45	43	50
Male Heterosexual	71	38	58
Female Bisexual	2	.5	4
Male Bisexual	24	19	22
Female Homosexual	2	3	2
Male Homosexual	23	12	11
Transsexual	5	17	14
	167	132	161
"Generous" companions wanted by females	36	34	32
"Generous" companions wanted by males	5	9	11

Generally then, it seems that no obvious change in the number of personal advertisements appearing in "Sex Partners" occurred in relation to the enactment of Bill C-49.

In sum, these advertising data indicate that the most obvious change in the off-street prostitution trade in Vancouver over the last few years has been the substantial increase in the volume of the escort service business. The number of ads for escort services placed in newspapers almost double after the enactment of Bill C-49, but within a year had returned to the 1985 level. Generally it is difficult to interpret advertising trends because of the practice of multiple advertising by one organization under different company names, although the fact that this practice occurs at all together with the increasing outlays of escort services on advertising expenses attest to the growing profitability of the business.

3. Profiles of Street Prostitutes and Tricks

We are able to develop profiles of street prostitutes and their customers from two main sources: a) from records on persons charged under s.195.1 from our sample of cases and b) from our interviews with prostitutes and tricks. As noted earlier, because we managed to secure only 17 interviews with tricks, we cannot generalize the findings of the trick survey -- rather we present this information anecdotally, as food for thought (a review of the information provided by the trick interviews is presented in Appendix 10). We also indicate where the findings of the trick interviews are consistent with other types of information presented throughout the report.

a) Information From Crown and Court Files

Demographic information (extracted from Crown and court files) relating to the sample group of prostitutes and tricks charged under s.195.1 is summarized in Tables 6 to 11 (Appendix 3). Data on previous criminal convictions other than prostitution are presented in Tables 16 and 17 (Appendix 3). Data on the overall number of charges laid are provided in Tables 55 and 56 (Appendix 3).

(1) Prostitutes

Our sample of s.195.1 cases included 242 individual prostitutes[15] of whom 191 were adults.

Table 6 (appendix 3) depicts the gender of prostitutes charged and, as already noted, indicates that males dressing as males are not charged at the same rate as females, if our counts are an accurate reflection of the proportion of different types of prostitute on the street (see Section IV B 4 above).

Table 7 indicates that 83.6% of prostitutes charged described themselves as "single," and 10.4% as being married or in a "common-law" relationship. It is likely that some of the persons reported as single actually live in what legally could be considered a common law relationship.

Table 8 depicts the "race" of the accused as either recorded in police reports, or as indicated by the name of the accused. These data indicate that the majority (72.5%) of prostitutes are "white." It is not possible to compare these proportions to the overall population because equivalent figures are not yet available from the 1986 Canadian Census. It appears that the proportion of "Native" women (19.6%) charged under s.195.1 considerably outweighs their number in the general population. It is not possible from these figures to tell how much this over-representation reflects the vulnerability of Native women to law enforcement efforts and how much it reflects their number in the ranks of street prostitutes, although it is probably safe to assume that it is a combination of both factors. Since the largest proportion of native women is to be found in Strathcona, their proportion in the overall number of women charged probably increased in 1987 and 1988 as enforcement efforts shifted to that area (our data relate to charges laid up to May 1987, a period when the lowest proportion of charges was laid in Strathcona; since the summer of 1987, the highest proportion of charges has been laid in that area).[16] Table 8 also suggests that "Indo-Pakistani" and "Oriental" women are probably under-represented among the ranks of street prostitutes.

Table 10 shows the ages of prostitutes charged (for a graphic representation of these data see Figure 22). We have not calculated an average age for youths and adults combined since the sampling procedures for cases involving youths and adults were not equivalent[17].

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[15] i.e. all cases involving anyone with more than one conviction were excluded from the analysis in order not to duplicate records on any individual.

[16] When one compares the number of women counted on the street to the number of women charged, the charge *rate* in Strathcona, after the summer of 1987, has been the highest of the three areas.

Table 11 shows the area of the accused's reported residence. Not surprisingly, most active street prostitutes (83.6%)[18] reside in the city of Vancouver. In the case of youths the equivalent figure is 48.7% with a further 27% declaring no fixed address.

Estimating the Number of Street Prostitutes

Police statistics for 1986 and 1987 indicate that a total of 838 individual prostitutes were charged under s.195.1 in Vancouver (Table 60). Of 1648 charges laid against prostitutes, 49.8% were second or subsequent charges. It is possible from these figures to estimate the total number of prostitutes who had worked in Vancouver during that two year period by using "capture-recapture analysis," a technique for estimating animal populations based on an analysis of the ratio between the capture and recapture of individuals. Rossmo and Routledge (forthcoming) have applied this technique to estimate the street prostitute population in Vancouver. The results of various kinds of capture-recapture analysis (taking into consideration such factors as the average number of days prostitutes work[19]) indicate that somewhere between 1284 and 2285 males and females (both youths and adults) worked the street in Vancouver in 1986 and 1987 at one time or another. Rossmo and Routledge point out that the major difficulty with this kind of analysis is that it cannot account for the effect of in- and out- migration.

(2) Tricks

Given that so little information about Canadian tricks currently exists, we collected demographic information on all customers who had been tried (or where proceedings had been stayed or withdrawn) by the time we drew our sample of cases in September 1987.

Table 6 indicates that all customers charged were male. Of the 42.6% who indicated that they were "single," we do not know how many of them lived in "common law" relationships; 52.1% of customers reported that they were married (and this category, too, may include common law arrangements).

According to Table 8, 61.6% of customers are "white," very few are "Native," and a considerably higher percentage of "Orientals" and "Indo-Pakistanis" are charged as tricks than as prostitutes (a ratio of 16.7:1.7% in the case of orientals and 18.0:.6% in the case of "Indo-Pakistanis"). It is not possible to ascertain how these figures relate to proportions of different "races" in the general population since such figures are not currently available.

Table 9 depicts the occupations of tricks as described in police reports converted to the Blishen socioeconomic status scale published in 1987 (Blishen et.al.). The Table indicates that 71.8% of the occupations reported scored below 40 on this scale. While this figure needs to be interpreted in the context of an understanding of the distribution of Blishen scores in the general population[20] it does, as we have already noted, suggest that, because of differential s.195.1 enforcement patterns, socio-economic status tends to be inversely related to risk of prosecution for communicating (tricks are rarely charged in the Richards-Seymour area, the stroll with the highest priced female street prostitutes).

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[17] 1 in 3 in the case of adults, 1 in 2 in the case of youths. Our sample of adults relates mainly to finished cases whereas 14.8% of the sample of youths involved cases that had not come to trial (Table 27, Appendix 3).

[18] This information was not available for 51 out of 191 adults.

[19] Based on interviews with prostitutes presented in the Vancouver Field Study of Prostitution, (Lowman, 1984) and the present research.

Table 10 shows a large age range of tricks (see also Figure 23); the youngest in our sample was 18 (we have not heard of any youth being charged as a customer), the oldest was 67. Almost 80% of the customers charged were under the age of 45. Obviously, this age decay rate reflects a decrease in the propensity of men, as they get older, to patronize prostitutes, but it may also partly arise from the increasing purchasing power of men as they get older. As that power tends to increase with age, men, as they get older, may increasingly patronize less public and more expensive types of prostitute.

Table 11 indicates that approximately half (50.8%)21 of the men arrested in Vancouver resided in Vancouver. Another 39.7% came from the municipalities constituting the greater Vancouver area, and another 2.2% resided in the Fraser valley. Only two of the men charged (for whom we were able to obtain a residential address) came from outside B.C.. If visiting men do patronize Vancouver prostitutes, they rarely meet them on city streets. Rather, our observations suggest that they go to local prostitute pick-bars or open the telephone Yellow Pages in their hotel room and contact an escort agency.

b) Socio-biographical Characteristics of Sample Prostitutes

The primary purpose of our interviews with prostitutes was to develop a first hand account of the way that the revision of s.195.1 has affected the activity of street prostitutes and their tricks. But in the process of interviewing prostitutes about their perception of the effects of Bill C-49 on the prostitution trade, we also collected information about the biographies of our subjects with an eye to comparing it with the results of the 1984 Vancouver Field Study of Prostitution (Lowman, 1984). Since a fairly comprehensive description of street prostitutes is available from the 501 interviews conducted by or for the Badgley and Fraser Committees between 1982 and 1984, the question naturally arises, has Bill C-49 had any influence on the kinds of people one now finds working the streets? Given that we have already concluded that Bill C-49 has not had any real impact on the extent of the street prostitution trade in Vancouver, this might seem like a moot question, but the answer to it cannot be presupposed.

Tables 61 to 164 summarizing the results of our interviews with prostitutes are located in Appendix 4. For comparative purposes we have also included selected data on the demographic and biographic characteristics of the 48 prostitutes interviewed in the Vancouver Field Study (Tables 165 to 184, Appendix 4) organized in a way that was not possible given the time limitations imposed on the preparation of that Report.[22] As far as we know, there are only four people who appear in both surveys, two of whom are transsexuals.

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[20] The socioeconomic status index has a mean score of 42.74, a minimum of 17.8 and a maximum of 101.74 (Blishen et. al. 1987, p. 470.

[21] Information was available for 179 out of 230 men.

Generally, the 1984 and 1987-88 samples of prostitutes appear to be quite similar in terms of a number of key social and biographical indicators that were utilized. Perhaps most important of all is the similarity of the two samples in terms of the age at which they entered prostitution. While both samples are comprised mainly of adults (in the 1984 sample the average age of females was 22.5, and males, 24.8; in the 1987-88 survey the average female age was 24.65 and male age, 25.8)[23] the majority began prostituting at a fairly early age. In the case of the 1984 sample, 69.2% of the males and 70% of the females had turned their first trick prior to the age of nineteen (Table 167). In the case of the 1987-88 sample, the figures were 79.4% and 72.7% respectively (Table 70).[24] The average age at which 1984 female subjects turned their first trick was 15.9 years; for 1987-88 subjects it was 16.3. The corresponding figures for males were 16.6 and 15.6.[25]

These findings are consistent with all recent research on street prostitution in Canada, and once again suggest that many street prostitutes "turn out" at an age when most of their peers live at home with and are supported by their parents. In this sense, many of our subjects entered prostitution as "lumpen" youths (cf. Lowman, 1987), and the process of the "defamilization" of youth often (but not necessarily) appears to be implicated in the process of becoming a prostitute. Table 158 shows that 76.5% of our female subjects ran away from home at least once (some never to return) and that over half of them were involved in cyclical running (Table 159).[26] A much lower percentage of males (27.3%) reported that they had run away. Males generally started engaging regularly in prostitution at a later age than females (Table 71).

Street prostitutes generally have low levels of educational achievement (Table 183 shows the 1984 sample and Table 160 the 1987-88 sample), a finding that, in part, is probably linked to a youth's conflicts at home (be it a natural home, a foster home, or a group home) -- dropping out of school is a logical corollary of running away from home. In the case of both 1984 and 1987-88 females and the 1987-88 males, approximately 60% had not gone further than Grade 10. Roughly 30% of each sample had not gone beyond Grade 8.

Table 144 shows the various persons our 1987-88 subjects had lived with during their childhood (there are no equivalent data for the 1984 sample); 27.3% of the females and 45.5 % of the males had lived in foster or group homes during their childhood.[27] Less than half (48.5%) of the females had ever lived with both parents (the equivalent figure for males was 64.5%). 63.6% of the females, and 45.5% of the males had spent at least some portion of their childhood with their mother only.

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[22] Given the unreasonable time required to complete the 1984 Survey -- it was conceived, executed and written up in a period of five months -- we did not have time to do anything more than generate tables describing the aggregate characteristics of our interview subjects. The tables included in Appendix 4 distinguish males from females.

[23] There were six youths in the 1984 sample, one in the 1987-88 sample.

[24] 63.3 percent of the 1984 females and 61.8% of the 1987-88 females had turned their first trick when sixteen or under.

[25] In the 1987-88 survey we added a question so that we could tell if there was a marked difference between when a person turned their first trick and when they began working regularly. In the case of females, the average age at which they began working was 17.3, a year later than the average age at which they turned their first trick; for males it was 17.6, two years later than the age at which they turned their first trick (Table 71).

[26] The term "runaway" has an unfortunate nuance to the extent that it makes the youth the active party. 10 of 26 women who said that they ran away considered themselves to have been "thrown away," and all three males who had run away put themselves in this category (Table 158).

As to the quality of relationships among family members, a series of Tables reveal the similarities between the 1984 and 1987-88 samples. Tables 152 and 178 describe relationships between our subjects and their fathers, and Tables 153 and 177 describe relationships with mothers. In the case of both parents, there is a preponderance of relationships described as unfavourable or neither good or bad over relationships described favourably, with the exception of 1987-88 males, 61.5% of whom described their relationships with their mothers as being favourable.

Tables 154 (1987-88 sample) and 179 (1984 sample) depict the incidence of assaultive relationships between family members. In the case of both the males and females in each sample, the majority reported that violence had occurred "sometimes" or "often" (the percentage ranges from 63.6% in the case of 1987-88 males to 76.5% in the case of 1987-88 females).

Tables 155 and 156 describe incidents where our 1987-88 subjects were victims of various kinds of sexual offences (as defined by current law) committed by family and non-family members prior to the subject's leaving home (Table 155 also includes incidents where siblings were known to be victimized). Equivalent figures for the 1984 sample are shown in Tables 180 to 182. Table 155 indicates that 14 of 34 (41%) of our 1987-88 female sample were victims of offences committed by other family members (10 of the incidents involved fathers, stepfathers and uncles) 3 of whom were victimized by more than one person. Table 181 indicates that 40% of 1984 females were victims of sexual offences by family members. Table 156 indicates that 50% of the 1987-88 females had also been victimized by non-family members. A cross tabulation of sexual victimization by family and non-family members indicates that 23 out of 33 females (69.7%) in our 1987-88 sample had been victims of a sexual offence prior to leaving their childhood home. It is not possible to produce an equivalent figure for the 1984 female sample because of the abundance of non-responses in the table relating to sexual victimization by non-family members. In the case of 1984 males there were no reports of sexual victimization by non-family members (Table 182); in contrast 5 of 11 males in the 1987-88 sample did report such incidents. Of the 4 males in the two surveys who reported being victims of sexual offences by family members, two involved siblings, one involved a father, and one a step father. Overall, it appears from these data that females were much more likely to be victims of sexual offences prior to leaving their childhood homes than males.

When it came to the description our subjects gave of the economic circumstances of their childhood home life (Tables 150 and 176)[28] there is some variation between the two samples. 28.6% of our 1984 female subjects described these circumstance as "well off" and 21.4% of them as "needy" in contrast to our 1987-88 subjects of whom 5.9% of the females described them as "well off" and 41.2% as "needy." None of our 1984 males classified the financial circumstances of their childhood as "needy" in contrast to 45.5% of the 1987-88 subjects. As is the case with most of this information, the number of males is too small to be able to read much into the differences between the two samples. As to the difference between the female samples along this particular dimension of our information, it might reflect differences in the samples rather than changes in the types of people working the street; we have no way of knowing which it might be.

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[27] Table 145 shows the age at which our respondents had first lived in foster homes, Table 146 shows the number of facilities our subjects had resided in.

[28] Table 149 indicates the reported occupations of our subject's parents as measured by the Blishen scale (Blishen et. al. 1987).

One other item of comparable information collected in the two surveys related to our subjects' place of birth; 40% of our 1987-88 subjects (Table 143) and 48% of our 1984 subjects (Table S.44 Vancouver Field Study, p.698) were born in B.C..

Further biographical information about our 1987-88 subjects is to be found in Tables 147 and 148 (number of brothers and sisters) and Tables 161 (number of other jobs held), 162 (persons subject now lives with), 163 (number of children) and 164 (number of own children subject now lives with).

In and of themselves, the data that presented here show that, apart from some minor deviations, the information about the biographies of our two samples of female prostitutes is very similar (the sample size is too small to say much about transvestitism, transsexualism or the young male hustler). Of course, these data by themselves do not allow us to say very much about the etiology of female prostitution -- they need to be contextualized in an understanding of such factors as the incidence of family violence and sexual offences in a broad cross-section of the population if they are to say much in this respect. But this has not been our object here.[29] Rather, we have concentrated on a number of key variables which have been identified by previous research as somehow implicated in the process by which teenagers first become detached from their families and then become involved in street prostitution. According to the picture presented by these key variables, the sample of female street prostitutes drawn in 1987 and 1988 looks very similar to the one obtained in 1984. This symmetry is hardly surprising given that, as noted above, all but one of our respondents had worked the street prostitution trade prior to the enactment of Bill C-49.

The most important dimension of the similarity between the two samples relates to the finding that most of our subjects began prostitution at an early age. The majority of the females we interviewed reported negative perceptions of childhood home life. Table 151 indicates that when asked for their strongest recollection of home life,[30] only 24.2 % of our subjects gave a positive response. A cross tabulation of the three variables relating to the incidence of family violence, sexual victimization by family members and sexual victimization by other people indicates that only two of 33 female subjects in our 1987-88 sample did not answer affirmatively to at least one of those questions (a further 5 who did not report any sexual offences said that intra-familial assaults occurred "sometimes").[31] Rates of sexual victimization of females, to the extent that they matched our 1984 findings, exceeded equivalent rates for the general population reported by the Badgley Committee,[32] and were similar to other rates reported in recent Canadian research on prostitution.

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[29] For discussions of the etiology of prostitution see the Badgley Committee (C.S.O.A.C.Y. 1984 Chapters 42 to 46), and the Fraser Committee (S.C.P.P. 1985 Ch. 28). For a commentary on the Badgley Committee perspective, see Lowman (1987).

[30] This question was used by the Badgley Committee in its Juvenile Prostitution Survey.

[31] Again it is not possible to compute these figures for the 1984 female sample because of the large number of missing values in the variable relating to sexual offences by persons other than family members. A crosstabulation of the incidence of sexual assault by family members and intrafamilial violence indicates that 21 of 30 female prostitutes (70%) reported one and/or the other.

Generally, it seems that females usually enter the trade prostitution trade as "lumpen" youth. Detached from the family at an age when they have few job skills or other means of support, not eligible for income assistance other than as part of social work programs (which they often reject as just another system of unwanted control over their lives) many of our female subjects appear to have turned to prostitution because of the *situational poverty* of lumpen youth, coupled with the large profits which can be made by young women in Vancouver's street sex trade.

Of course, all of this leaves some interesting questions about the subjects who did not report adverse home conditions or became involved in prostitution at a later than average age, and it does not tell us much about the way people become entrenched in the trade -- but such issues must remain beyond the scope of the present report. And it leaves us not being able to say a great deal about males, except that they too seem to enter prostitution at a fairly early age.

4. The Impact of s.195.1: Interviews With Prostitutes

a) Sample Prostitutes Experiences With the Law

Table 122 shows that out of 42 respondents who had worked the street since the enactment of Bill C-49, 24 (57.1%) had been charged at least once under s.195.1,[33] including 14 who had been charged on more than one occasion[34] (Table 123); one woman had been charged than 11 times. Table 124 gives a good indication of the relatively greater likelihood of a charge being laid in Strathcona and Mount Pleasant as compared to the Richards-Seymour area. Table 69 indicates that 62.5% of our respondents had worked in the downtown area, and only 25% of them in Mount Pleasant and 20% in Strathcona. In contrast, of 45 charges laid against our respondents, only 26.6% of them were laid against persons while they were working the Richards-Seymour area.

Table 125 indicates that most of the time they are charged, our subjects financed their defence through the Legal Aid program. Our interview subjects tended to plead guilty a little more than defendants in our sample of cases drawn from Crown files, but the difference is a small one. A larger proportion of our interview subjects was found not guilty than was the case in our review of Crown and Court file information.

Table 127 depicts the sentences awarded for first, second and third charges (there was only one person sentenced for a fourth sentence -- she received a jail term). Like police information on sentencing, these figures indicate that prostitutes convicted of a third or subsequent charge are generally jailed.

Table 131 shows the other criminal convictions of our respondents; 32.4% of them had no other convictions. In our study of cases, the proportion was much higher --

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[32] For commentary on the Badgley Committee's apparent miscalculation of the relative rates at which young prostitutes and other Canadians were victims of sexual offences during their childhood see Bagley, (1985) and Lowman (1987).

[33] Surprisingly, 9 of them (21.4%) had been charged under the first version of s.195.1 (Table 121).

[34] We only gathered information on the first four charges laid against a respondent.

54.9% had no other convictions (Table 16, Appendix 3). It is possible that our interview subjects included prosecutions under the Young Offenders Act (or the Juvenile Delinquents Act before it), records which would not have been included the Crown and court files from which we drew information for our study of cases.

b) Street Prostitution Practices After Bill C-49

In this section of the report we present some basic information about the work styles of our sample of 45 prostitutes, and their opinions about the effects of the revision of s.195.1 on the prostitution trade in Vancouver.

Our sample of 45 prostitutes included 34 females and 11 males (7 transsexuals or transvestites,[35] and 4 men who dressed as males while they were working). Our statistical information differentiates males and females wherever the distinction is analytically pertinent. Three of our subjects were "youths" under the definition of the Y.O.A.. Apart from four black women and four Native Indians, our subjects were white. As was the case in the 1984 study, we can say very little about Native Indian prostitutes, despite their considerable numbers in the ranks of the accused (Table 8, Appendix 3).

Our female respondents had worked regularly as prostitutes for an average of 7.35 years (the median was 5 years) and males 8.2 years as compared to averages of 5.67 (females) and 6.85 (males) years in the case of the respondents in the 1984 Field Study sample.

All but one of our 45 respondents worked before 20 December 1985 when Bill C-49 was enacted.

(1) Meeting Tricks

Tables 61 to 67 depict the proportion of tricks our respondents met in various ways (on the street, in clubs, hotels, massage parlors, through escort agencies or ads, and through "other" means) during the six months immediately prior to the date we interviewed them. Twenty of 45 respondents worked exclusively on the street during this period, and seven exclusively off the street (of whom four had worked as street prostitutes prior to the six month period in question). As eighteen were "hybrids" to the extent that they worked both on and off the street, they provided information about both experiences.[36] Only 3 of the 18 hybrids met more than 50% of their tricks in off-street locations (as a group they met an average of 69% of their tricks on city streets).[37]

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[35] While there is a vital difference between a transvestite and a transsexual -- the latter is a person who intends to change sex (none of our subjects had completed sex changes), the former does not -- we present statistics on males as a single group since no meaningful differences could be discerned even if the different categories of males were distinguished from each other.

[36] Unfortunately, we made the decision to include information on off-street prostitution provided by subjects working mainly on the street after a third of the interviews had been completed, the result is that our information is not as complete as it could have been.

[37] It is not possible to ascertain the overall percentage of tricks our subjects met in different locations since each table provides information for only those subjects who worked the location to which the table pertains (i.e. the 20 prostitutes who worked exclusively on the street in Table 61 were coded as

Of the 18 interview subjects who worked both street and off-street locations, five indicated that the proportion of time they spent working the street was increasing, 10 thought that it was decreasing, and 3 thought that it was remaining constant (Table 68).

Of the seven subjects who had not worked the street during the six months prior to the interview, three (2 females, 1 male) worked exclusively with regulars, one transsexual worked exclusively through newspaper and magazine advertisements and another woman met 95% of her tricks this way, one woman worked exclusively in a club, and the remaining male met 50% of his customers through escort services -- the other 50% were regular customers who maintained contact with him by phone.

Generally, the preponderance of street prostitutes in our sample indicates the difficulty we had locating and getting permission to interview off-street prostitutes. Our information on street prostitutes is, once again, by far the most substantial; we have been able to provide nothing more than a rudimentary picture of the experiences of prostitutes operating out of public view (see Appendix 12).[38]

(2) Stroll Areas Where Subjects Worked

Table 69 depicts the various areas our 38 street prostitute subjects worked (also, see Table 84). Of 24 women for whom we had complete information, 14 worked in one area only, 7 had worked in two areas, and 4 had worked in three areas or more. There was very little cross over between Strathcona and the Richards Seymour stroll, and no-one had worked only in Mount Pleasant, the area of the most concerted uniform police effort against street prostitution. Of 10 males for whom we have complete information,[39] all worked in the Richards-Seymour area. Only two of them operated in any other area (both were transsexual and had worked in Mount Pleasant as well as downtown). Males dressing as males only work in the southern part of the Richards-Seymour stroll having moved from the traditional male area in the West End in 1984 after the laying of civil nuisance injunctions against prostitutes working in the area. Thus 62.5% of our overall sample had worked in the Richards Seymour area, 30% had worked in Mount Pleasant or the adjoining section of Broadway between Clark and Commercial, 20% had worked in Strathcona, and 4 had worked in the Hastings Colombia area (see Map 7 for the location of these areas). These proportions roughly correspond to the ratio of persons working in the various stroll areas as indicated by our counts. Strathcona, the area where many native women work, is somewhat under-represented in our sample -- a reflection of the previously noted reticence of these women to talk about their activities.

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missing values, not as zeros, in tables relating to clubs, hotels, massage parlors, escort agencies, ads and other locations (Tables 63 to 67)).

[38] Although a substantial proportion of our 1984 respondents did work in hotel lounges and bars (Table 182), we did not obtain much information about the functioning of this kind of prostitution trade at that time (several of the women who had worked in bars had done so several years before the interviews were conducted); similarly, we did not get much information about escort service operations.

[39] This figure includes the two males who had worked on the street since the enactment of Bill C-49, but had not done so during the six months prior to the interview.

(3) Location of Services Rendered

In terms of services rendered by prostitutes, Table 103 describes our subjects' estimates of the frequency of tricks' requests for "blow jobs" (fellatio), "straight lays" (sexual intercourse by itself) and "half and halfs" (fellatio followed by sexual intercourse); the averages of the percentage estimates are presented. Fellatio is the main service provided by street prostitutes (some of our subjects did nothing else), while the "half and half" is the service most commonly performed by off-street prostitutes. These differences are partly explained by the location where prostitutes turn tricks (Table 102); in the case of street prostitutes, an automobile was used to conduct an average of 42.9% of business with the rest in hotels or "trick pads" (apartments rented for the purpose of turning tricks) while off-street prostitutes mainly used trick pads or hotels (sometimes the prostitute would go to the trick's apartment, but most women are leery of doing so because of their vulnerability once on his private turf). The 1984 survey did not collect comparable data in this respect.[40]

(4) Prices

Prices for various services -- distinguishing males and females, and street and off-street prostitutes -- are described in Tables 97 to 100. For female street prostitute, the Tables indicate that, while subjects differed to some extent in the exact price that they charged for various services, the distribution of values shows two main price ranges in Vancouver for a "blow," "lay" and "half and half;" $40, $60 and $80 or $60, $80 and $100 -- the same two price ranges that obtained in 1984. The cheaper price range occurs mainly in Strathcona and Mount Pleasant (although prostitutes charging the higher range may also work these areas). The higher price range generally occurs in the Richards Seymour area and applies to both males and females. Prices for off-street prostitution services vary. Prostitutes working in bars, depending on the bar, generally charge the same ranges as street prostitutes. Escorts generally charge more, starting at $100 (plus the agency fee).

The overwhelming perception of our respondents was that there had been either no change in street prices since the enactment of Bill C-49 (66.7%) or that they had decreased (30.8%). Only one person thought that they had increased. In regard to off-street prices, 75% of our subjects thought that prices had not fluctuated, 25% thought that they had increased.

Table 93 depicts the number of days each week that our subjects worked; 40% of them worked seven days a week (the mean for females was 5.7 days, and for males, 5.4 days). Table 94 shows the equivalent estimates for off-street prostitutes, some of whom also worked the street. By way of comparison, the male and female street prostitutes we interviewed in 1984 worked an average of 5.4 days per week. According to these statistics, s.195.1 has had little effect in reducing the average number of days that prostitutes work each week, although it may still influence the number of hours worked, or at least the particular hours worked (see Section V B 4c(2)).

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[40] Table M.21 and M.22 of the 1984 Study relate to services requested and the location tricks are taken to (Lowman, 1984 p.717) but the information was organized in such a way that we cannot compute the relative frequency of requests for services or the use of different locations.

Tables 91 and 92 give estimates of the average number of tricks turned by our subjects each day.[41] The average for both female street and off-street prostitutes was 3.2; for males working the street it was 3.4, and 2 for males in off-street locations.

c) Prostitute Perceptions of the General Effects of s.195.1

In this section of the Report we review our subjects' perceptions of the general effects of s.195.1 enforcement on the practice of the street prostitution trade. Comments on "pimps" and "bad tricks" are discussed in separate sections.

(1) Where Prostitutes Meet and Turn Tricks

When asked whether s.195.1 enforcement had influenced the location where prostitutes meet tricks, 19 (43.2%) of our respondents said that it made no difference (Table 74). Four subjects no longer worked the street anyway, they met tricks in other ways, but none of them said that they did so specifically to avoid police decoys. Eighteen respondents said that they were affected by the communicating law to the extent that they used advertisements more and worked bars, hotels, and as escorts more in order to try and avoid prosecution.

As to whether s.195.1 affected where prostitutes turned tricks, 21 said that it did, and 21 said that it did not (Table 75). Of those who answered affirmatively, 55% said that it meant that they turned less tricks in cars, and 40% commented that it meant that, if they were going to turn a trick in a car, they would leave the stroll area before doing so.

(2) Time Spent Working

In terms of the time prostitutes spend working, 61.9% of our subjects said that it remained the same or increased since the enactment of Bill C-49 as compared to 38.1% who said that it had decreased (Table 77). Table 78 summarizes the reasons given by prostitutes who said that s.195.1 had changed their work activity, be it an increase or decrease. It would seem from these figures that if s.195.1 does reduce the amount that some prostitutes work, this effect is counteracted by the propensity of others to work longer hours. Slightly more than half of our subjects (51.2%) also noted that they worked around what they (correctly) perceived to be the period of most intense Vice Squad activity, by working late at night (after 2.00 a.m.) or in the early afternoon (Tables 86 and 87). Our Strathcona counts appear to confirm the extent of this type of temporal displacement (Figure 11; see also Section V B 4c(2)).

(3) Intra- and Inter-City Movements

Several of our respondents said that they worked in more than one area (Table 69). When asked if movement between areas had anything to do with s.195.1 enforcement, 20 (48.8%) intimated that their movement was related to law enforcement patterns (Table 85). Only two persons mentioned any kind of court order as a reason for moving out of a stroll, although answers to a subsequent question indicated that only one of our subjects did not comply with an area restriction (Table 129), and Table 130 shows that she was charged as a result. The number of area restrictions associated with the sentences handed down to our subjects is shown in Table 128.

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[41] Unfortunately, we do not have equivalent data for 1984 because we asked how many tricks were turned on "good" days and "bad" days rather than requesting a simple average.

Tables 79 to 83 relate to prostitutes' movements among cities. Table 79 indicates that 11 (26.2%) of our subjects had worked in other cities (Table 80 shows the number of other cities) and had moved as a result of being charged or convicted under s.195.1 (Table 81; Table 82 shows the number of charges). Six of the eleven had outstanding charges in other cities having failed to appear in court (Table 83).

(4) Deterrence

We asked our subjects a series of questions about the perceived deterrent effect of s.195.1. When asked if they knew anyone who had quit prostitution altogether as a result of s.195.1 enforcement, 66.7% said that knew of no one at all, and a further 26.7% said "a few." Only three people (6.7%) said "many." When it came to the effect of s.195.1 in displacing prostitutes to off-street locations, 17 (38.6%) knew of no one, 21 (47.7%) said "a few," and only 6 (13.6%) said "many." Once again, as with every component of this research, these findings suggest that s.195.1 has had a minimal impact on levels of street prostitution in Vancouver.

One other question relating to the perceived deterrent effect of the law concerned its influence on the number of tricks picking up prostitutes on the street (Table 95). 58.6% of our female subjects and 80% of males felt that the number had declined because tricks feared prosecution, reinforcing the impression that s.195.1 has had more impact on tricks than prostitutes.

C. EFFECTS OF PROSECUTION AND PRESENT SENTENCES ON PROSTITUTES AND TRICKS

Given that sentencing practices have become the most contentious issue for the groups which lobbied for Bill C-49 in the first place -- lenient sentences are held by the police administration and anti street prostitution groups to be the bane of s.195.1 -- we also asked our police, Crown, and social work respondents about the deterrent impact of the sentences that are awarded, and the likely impact of heavier sentences should s.195.1 be made a hybrid or purely indictable offence. In this section of the report, we examine the perceived impact of current sentencing practices on prostitutes and tricks, and in Section VI 3a we return to the likely impact of harsher sentences on the street prostitution trade.

1. Effects of Prosecution on Neophyte and Dilettante Prostitutes

There was a general feeling amongst all our respondents that current sentences including short prison terms have very little effect on seasoned prostitutes. One Vice

Squad officer epitomized the general impressions of our police respondents in the following way:

> In the case of prostitutes (s.195.1) doesn't appear to have been much of a deterrent. In the case of a newcomer, prosecution may have a shock value, and may have some deterrent effect in this sense. But with a seasoned prostitute, prosecution seems to be the price of doing business...
>
> A person may have worked as a prostitute five days a week for a year and made quite a lot of money. And then to be hit with a short jail sentence a year later after two or three charges have been processed really isn't much of a deterrent.
>
> We're talking about a person's lifestyle. This is not someone succumbing to immediate temptation, or committing an opportunistic offence... They're street people. I don't think that you can change their lifestyle by giving them short periods of imprisonment, or by giving them fines. (Vice Squad Administrator, Appendix 1, p. A-11)

Another police officer, following the same kind of reasoning, felt that prosecution could have some beneficial effects on youths:

> (T)he philosophy I tell the constables coming through here is that they'll have very little impact on anybody's actual life by charging them with 195.1. Especially if they're hard core; if they're an adult or a drug addict or they've been a whore for so many years, us making one more arrest won't really have any positive impact on them.
>
> But if we're talking about a juvenile, I tend to think that we do have an effect. We do get them off the street sometimes. A lot of times it's their first time arrested. You can tell them all kinds of things to scare them. Talk to them a little bit, get them back into the system again. There's been a lot of juveniles come and go and I don't know where they are but presumably some of them have either gotten off the streets on their own, or been sent off the street. But at least they're off. (Detective #1, Appendix 1, p. A-22)

In a slightly different vein a street worker, while not at all impressed with the overall philosophy of s.195.1, did remark that in some isolated cases, incarceration could have positive consequences, although it is often difficult for the offender to capitalize on them:

> I think the positive impact (of s.195.1) is really minimal. Sometimes you may have a woman who, as a result of spending some time in jail, gets away from the street -- away from the working reality, away from drugs -- for a while, so that their health temporarily improves. While they're in prison they might be talking about doing something different when they get out -- going back to school or going into a treatment program. They may feel that they want to continue the progress that's been made by going to jail.
>
> I imagine that a lot of women go through these feelings. But in terms of where to go with it, if they haven't made good connections with a social worker or a women's center, with POWER or with one of the street projects, they might be feeling those things, but they wouldn't know where to go with them upon release. (Street Worker #2, Appendix 1, p.117)

2. The Differential Impact of S.195.1 on Prostitutes and Tricks

All the criminal justice representatives we interviewed were of the opinion that s.195.1 had markedly different effects on prostitutes and tricks. As we have already seen in the case of prostitutes, our respondents suggested that the impact of prosecution would not have much effect on women entrenched in the trade, but it might deter neophytes. In contrast, in the case of customers, it was thought that s.195.1 did have a deterrent effect on the individual charged.

> Customers, I'm sure, buy many, many times. But whether they continue as much after they're charged, I'm not sure. We've only picked up a few repeaters. I think it can be habit forming if a straight businessman picks up a whore and gets away with it and gets a kick out of it, a sexual thrill. Three or 4 months later, things are not going good at home, well why not, it's another pick-me-up sexual thrill.
>
> But when he's charged, all of a sudden his whole life as he knows it is hanging on the brink. If he manages to survive that, he's going to say, "Hey, wait a minute, that's it, no more. I love my wife so much." It's like having an affair. If you don't get caught, you're not going to stop. But if you either get caught or get close to getting caught, a lot of guys say, "That's my one chance, thank you, that's it. I didn't realize how much I had to lose." (Detective #1, Appendix 1, p. A-25)

Referring to tricks in particular, one policewoman reasoned:

> I think johns might be deterred. The john is your average joe citizen. Maybe it's the first time he's ever talked to a prostitute and he gets arrested for it. Maybe it isn't his first time, but now he has the embarrassment. In all likelihood, I would say that most of them probably won't do it again. They go to court, they get convicted, and they may get 3 months probation and a $50 or $100 fine. I think that process, not the sentence itself, deters that kind of person. (Policewoman #2, Appendix 1, p. A-56)

Our police respondents noted that these same differences were apparent in the way prostitutes and tricks react to being charged:

> The girls generally accept it as a part of their lifestyle... In contrast the johns are real whiners. They seem to have a lot more to lose even though it's a summary conviction offence. If you don't care about your moral standing in the community, or your reputation -- which the prostitutes don't -- then so what, its only a summary conviction. But obviously, a guy who's got a reputation, it's not so much the $150 fine or probation, it's his standing with his family and in the community that is at stake. So they whine like crazy. They either beg or they become very indignant if they don't believe that the person they just spoke to was a policewoman ... And they'll maintain their innocence until the end. That's the big difference between tricks and prostitutes. (Detective #1, Appendix 1, pp. A-20-21)

A second officer described the difference this way:

> Most of the girls see getting charged as being a nuisance. We're seen more as a pest. We just keep getting in the way of them doing their jobs.
>
> Most of the women take being charged fairly matter of factly, except for the teenagers. They put on a typical teenage scene; they scream and yell

> and pout and slam doors and all that kind of stuff. But that's a typical teenager. In contrast the older pro will say, "Hey, you got me this time;" they know the game. "You've got your job to do and I've got mine and we'll see you in court." That's their attitude; they have more of a professional approach the older they get.
>
> When a girl is a hard core prostitute, then she knows that if she's going to continue to work, she's going to be charged; that's a given. She tries to reduce the chance of being charged as much as much as possible. Some of them will even give you credit for being sneaky and cunning, and actually compliment us on our creativity in being able to get them.
>
> The majority of the tricks just go into a shell. They envision every terrible thing in the world happening to them -- their wife and kids finding out, the boss too. Just the thought of the charge itself, engaging in prostitution, just the thought that they're going to have a record like that following them around for the rest of their lives, they start seeing the whole world come crashing down around them. Very rarely is a guy going to argue with you. They just want to slink out of there as quickly as they can. Often they'll try to beg with you to let them go, to forget it promising that they'll never do it again. They can get very remorseful.... They'll usually avoid arguing or being snotty because usually, if anything, they're trying to sweet talk you or brown nose up to you. The vast majority are very co-operative and just want to try and reduce the pain as much as possible. They're begging for information asking, "What will happen to me, what will I do?" Most of them have never been before the law before. They have no idea about procedure or calling a lawyer, or what happens in court. They want to know what the judge has done to other guys in similar situations. They have a lot of questions. (Detective #2, Appendix 1, p. A-32)

Above and beyond the issue of what effect s.195.1 has on the men who are actually charged is the whole issue of its *general* deterrent impact. Tricks, because they only visit Vancouver's prostitution strolls periodically and because there are so many of them, face only a small chance of apprehension. Consequently most of our respondents thought that the general deterrent impact of s.195.1 on the activities of tricks was minimal. As one Vice Squad officer noted:

> Our recidivism rate of customers is only about 1%. Of approximately 500 customers charged we have only 7 or 8 repeat offenders. No customer has been charged 3 times yet. Now whether this is because the law is a deterrent or whether it's because there's just such a large number of customers out there, I don't know. (Vice Squad Administrator, Appendix 1, p. A-12)

In speaking to this issue one Crown attorney thought that many customer defendants were not aware that the communicating law even applied to them, a finding consistent with our survey of tricks (see Section IV A 4); clearly those tricks who do not realize that they are breaking the law are certainly not going to be deterred by it:

> Actually (what) I find quite remarkable (is) the number of civilian people outside the system who don't realize that we charge johns. Without that knowledge being widely distributed, the law doesn't have an awful lot of deterrent power. I think that it should be made much more public and people should be much more aware of what they're up against. I would say, with johns, I don't really think (s.195.1) has had a great influence. I think a lot of johns are very surprised that they have committed a criminal offence.

> We've had this legislation for a while. I would certainly think that the law has some specific deterrent value since so few johns are charged again. I certainly haven't seen any come back a second time. (Crown Counsel #3, Appendix 1, p. A-97)

Most commentators, then, conclude that when it comes to prostitutes, apart from neophytes and dilettantes, the law has very little noticeable deterrent impact. Supporting this view, are the high rates of repeat prostitute offenders -- of 1,648 195.1 charges laid against prostitutes in 1986 and 1987, 49% were against persons previously charged for communicating. In the case of tricks, the simple fact of being prosecuted was thought to be much more consequential than the sentence no matter what it was, but that usually the deterrent effect of prosecution was thought to be specific to the individual person charged and probably had little general deterrent value. In 1986 and 1987 of 532 customers charged, only eleven were repeat offenders. It is difficult to know what to make of this low recidivism rate since the likelihood of a trick who visits the stroll(s) infrequently being charged is minimal. And since the number of tricks compared to street prostitutes is enormous, the likelihood of an individual trick as compared to an individual prostitute being charged is slim.

Whatever the case might be, these findings suggest that, if the purpose of policing is to get the prostitution trade off the street, *the most successful law enforcement efforts are likely to be those focusing on tricks, not prostitutes!*

3. Why Do Prostitutes Still Work the Street?

Given that off-street prostitution appears to be safer than the street trade, and much more comfortable from the point of view of the prostitute, one might reasonably ask why more women do not leave the street. We have already suggested that penalties (in lieu of changes to other prostitution statutes) would have to be quite severe to overcome what, for some prostitutes, are the positive aspects of the street as a location to meet tricks.

Street prostitutioon is by far the simplest way to meet tricks. Only certain kinds of women are equipped with the skills, personalities, and lifestyles neceassary to make a living as an escort service prostitute. Apparently the main factor restricting the bar business is the limited number of tricks who go to them to pick up prostitutes.[42] Probably the most important factor in the persistence of the public trade is that there is still a ready supply of tricks for prostitutes working the street.

From the trick's point of view there are three main advantages to meeting prostitutes on the street: a) the sexual services provided by street prostitutes are the cheapest and often there are no subsidiary charges (such as hotel room fees, escort agency fees, and cover charges); b) the street prostitute's trick is almost totally anonymous -- there are no other bar patrons to see him, nobody wanting to know a hotel room number to send an escort to and no-one asking for a credit card number for payment; and c) the trick gets to visually select a prostitute from among many.

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[42] One Thursday night in a Vancouver strip bar frequented by prostitutes, we observed only three of fifteen women leave with a trick during a four hour period begining at 10.00 p.m.. On another Thursday night at this same bar there was a line up at the door, the result, we were told, of business created by a business convention.

What these observations suggest is that *policy on prostitution must take into account the socio-economic stratification of the prostitution trade* and the very different kinds of people working in it if it is to succeed in the instrumental goal of curtailing street prostitution.

D. THE IMPACT OF BILL C-49 ON THE INCIDENCE OF BAD TRICKS

One of the main objections to Bill C-49 when it was being debated after its first reading was that, in lieu of revisions to other aspects of the criminal code relating to prostitution, it would make street prostitutes more vulnerable to violence in at least five ways. First, because women might feel the need for more protection once the communicating law was in effect, they would turn increasingly to pimps to provide it. The result would be more pimp violence perpetrated against prostitutes. Second, if prostitutes were forced into off-street locations, it would be easier for pimps to gain control over them. Third, because women who did work on the street might become more dispersed and forced to operate more covertly, they would become more susceptible to "bad tricks." Fourth, because s.195.1 serves to consolidate the criminal status of prostitution, this social marginalization might help some men to more easily rationalize acts of violence against prostitutes. Fifth, prostitutes would be even less likely to report crimes against them to the police than they already were for fear that they would have to admit working the street, and be charged under s.195.1 as a result of doing so. As a result, serial bad tricks would be able to operate with less likelihood of apprehension.

In the analysis presented here, rather than "violence" as such, we examine statistics on the incidence of "bad tricks" and crimes against prostitutes generally (although violence or threat of violence is usually inherent to the actions of any "bad trick") in an attempt to ascertain if prostitutes have become more vulnerable since the enactment of Bill C-49. We also examine police, social worker and prostitute perceptions of the incidence of bad tricks in Vancouver, and their feelings about the effect of s.195.1 on the safety of prostitutes.

1. Statistics on Crimes Against Prostitutes

We have two sources of information on the extent of "bad tricks" in Vancouver; crimes reported by prostitutes to the police, and bad tricks reported to "POWER" (Prostitutes and Other Women for Equal Rights) for publication in the "Bad Trick Sheet," a flyer distributed to women working the street (for a description of the activities of this organization and the preparation of the Bad Trick Sheet see Appendix 1, pp. A-196-210).

Police records provide little information about the extent of crimes against prostitutes, since so few of them, even before the enactment of Bill C-49,[43] were ever reported. Figures provided by the Vice Intelligence Unit indicate that during the first ten months of 1987, a total of 39 reports were made.

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[43] For a discussion of reporting of bad tricks to police by prostitutes interviewed in Vancouver in 1984 see Lowman (1984) pp. 249-256 and 725. Table M.37 (p.725) indicates that only 25% of those subjects mentioning crimes committed against them had ever reported any one such incident to the police.

TABLE I

REPORTS TO POLICE BY PROSTITUTE CRIME VICITMS 1 JANUARY 1987 TO 31 OCTOBER 1987

1987	Sexual Assault		11
	Sexual Assault and Robbery		6
	Robbery		9
	Assault		13
		Total	39

While information on the number of offences reported by prostitutes is not available for the years immediately prior to the enactment of Bill C-49, we do have some figures for 1977 and 1978 (Table J):[44]

TABLE J

REPORTS TO POLICE BY PROSTITUTE CRIME VICTIMS 1977 AND 1978

1977	Rape		6
	Indecent Assault		8
	Assault		36
	Wounding		3
	Robbery		27
		Total	80
1978	Rape		10
	Indecent Assault		8
	Assault		28
	Wounding		3
	Robbery		37
		Total	86

In 1977, police were still successfully enforcing the first version of s.195.1, but after February 1978 (the time of the Hutt decision) less than 20 charges were laid. In both years there was a larger number of reports of crimes against prostitutes than there was in 1987, but there simply is not enough information on the compilation of these data to draw any conclusions about trends in violence against prostitutes.

The Bad Trick Sheets published by POWER give a better idea of the incidence of Bad Tricks and the extent of under-reporting to the police. Of course, since not all bad tricks find their way onto the Bad Trick Sheets these data also under-represent the incidence of bad tricks.[45]

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[44] The figures were recorded in old vice squad files.

[45] For example, Table 132 indicates that 14.7% of our female respondents were not aware of the existence of POWER, and Table 133 shows that 41.9% of them had never had any contact with the organization. 48.5% of the female respondents had supplied descriptions of bad tricks for inclusion on the sheets (Table 135). 87.9% of the female respondents had received Bad Trick Sheets (Table 134), although we don't know how many people received them regularly.

2. ASP/POWER Bad Trick Sheets: Trends in the Reporting of Bad Tricks

Tables 198 to 206 (Appendix 11) display the data that we gleaned from the reports of bad tricks published by ASP and POWER.[46] Table 201 indicates that during the 10 month period in 1987 during which 39 incidents came to the Vice Intelligence Unit's attention, 135 incidents were described on Bad Trick Sheets. Each sheet usually contains information on anywhere from 10 to 20 incidents.[47] Table 200 describes the characteristics of the various incidents and the types of crime committed. Some of the reports involved incidents where an actual crime may not have been committed but the complainant believed that the commission of a crime was imminent (i.e. the trick "acted crazy" or was just plain "weird"). Disturbingly, 27.1% of the incidents involved the presence of a knife, gun or some other weapon. Table 201 shows that 17.6% of the incidents involved persons who had been known to victimize prostitutes previously (this information was sometimes included on the Bad Trick Sheet; an alphabetically ordered list of the car license plate numbers reported in the sheets also revealed several multiple offenders). In 86.2% of the incidents, one offender was involved (Table 204) and in 98% of the cases, one prostitute was involved (Table 203). Almost 95% of the bad tricks were reported by females (Table 205). The majority (75.4%) of bad tricks reported were thought to be in their twenties and thirties (Table 206), a figure close to what one would expect it to be given that 68.8% of the tricks in our sample of cases were under forty years of age at the time at which they were charged (Table 10, Appendix 3).

It is difficult to know what to make of the finding that the highest proportion of incidents between 1985 and April 1988 were reported by prostitutes picked up in Mount Pleasant, since it might reflects patterns of collecting information for the Bad Trick Sheets. Even so, it is worth noting that Mount Pleasant prostitutes are usually more spread out -- and thus individually more isolated -- than prostitutes in the other two stroll areas.

Table 198 indicates the "race" of the bad trick. It may well be that some groups are overrepresented in terms of their proportion in the general population but, as we noted earlier, no such measure is available. One noteworthy feature of these data in comparison to the "race" of the men included in our sample of cases (Table 8, Appendix 3) is the different proportions in the two tables. In comparison to their occurrence as a percentage of the overall number of men charged, white men are over-represented in the Bad Trick Sheets (62.6% of the men charged were white, 79.3% of bad tricks were white) while orientals and Indo-Pakistanis are under-represented.

As to the issue of whether the number of bad tricks has increased since the enactment of Bill C-49, the trends revealed by the Bad Trick Sheets (Table 199) are difficult to interpret. The average number of bad tricks reported each month increased in 1986, the first year of s.195.1 enforcement, but then declined again in 1987 to the 1985 level. It could be argued that the number in 1986 actually increased more than it appears from these figures to the extent that our head counts of street prostitutes indicate that the number of females working the street was considerably lower in 1986 than in either 1985 or 1987 (Figures 3 and 5). Then in the first few months of 1988, the average number of bad tricks reported each month was double the 1987 mean. Such trends are all the more difficult to interpret given that we can only speculate about the temporal aspects of any effect that Bill C-49 might have had on the incidence of bad tricks. At issue here is the length of the time lag between the enactment of Bill C-49 and its effects, and we can offer no firm conclusions in this respect.

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[46] The name of the organization was changed from ASP (The Alliance for the Safety of Prostitutes) to POWER in March 1986 (POWER spokeswoman, Appendix 1, p. A-197).

[47] There is usually one paragraph per incident. Once an 8 by 14 inch sheet is covered on each side, the sheet is circulated.

One thing that this information does show is that crimes against prostitutes are widespread.

3. Police Perceptions of the Impact of Bill C-49 on the Incidence of Bad Tricks

Every police officer who we interviewed was well aware that prostitutes are frequently the victims of criminal offences, and thought that only a small portion of them were ever reported to the police (e.g. Vice Squad Administrator, Appendix 1, p. A-9). While male police officers did not express much concern for their own safety during s.195.1 enforcement (see e.g. Policeman #1 Appendix 1, p. A-21; policeman #2, Appendix 1, p. A-34), the VIU orientation manual, under the heading "Officer Survival," requests that backup officers routinely scrutinize trick suspects stopped in vehicles:

> Check the inside of the vehicle for weapons; prostitutes are frequently the victims of violent attacks, these weapons could be used against you.
>
> If weapons are discovered, commence an investigation; it is likely that the suspect is responsible for other assaults.

One of the female decoys did express concern for her safety given that several of the men arrested were carrying knives. And she wondered why some men who were approaching prostitutes had no money on them when they were searched:

> Or they would have half the amount of what they said they were willing to pay. That has to make you think -- what were they doing approaching you in the first place? A guy would offer $80 or $100 and they'd get him down to the station and search him and there'd be $20 dollars in his pockets. (Policewoman #2, Appendix 1, p. A-55)[48]

Thus, in one sense, Bill C-49 has increased the likelihood that bad tricks will come to light tangentially, to the extent that through s.195.1 enforcement tricks, for the first time in the post World War 2 period, have been subject to any regular police scrutiny:

> Only a few weeks ago, a number of weapons were seen in a customer's car and the investigating officer seized them, and left the report for me. I examined our records for assaults against prostitutes, and identified an incident that had happened a month previously. As a result the customer was charged with sexually assaulting a prostitute. (Vice Administrator, Appendix 1, p. A-10)

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[48] On one of our "ride-alongs" with the vice squad, a trick who had been charged was found to have only three dollars in his pockets. When questioned he denied having mentioned sex or money to the female decoy. He worked at a local church.

Thus the assertion which is sometimes made that police do not respond *at all* to prostitute complaints seems unwarranted,[49] even if it is equally clear that some prostitutes have had difficulty getting action over complaints. One police officer noted:

> (W)e're always interested in the bad tricks. Although we're in the business of prostitution enforcement, we're just as concerned, if not more so, with pimps and bad tricks. It's an open field. The girls really leave themselves in a vulnerable position by getting in cars with these guys – especially the young girls. So, we are concerned about the guys who are there for purposes other than carrying out the sexual act. (Policeman #2, Appendix 1, p. A-33)[50]

One reflection of the sincerity of these comments is the recurrent newspaper coverage of the charging and prosecution of bad tricks in Vancouver over the past few years. In 1986 newspaper reports, for example, mentioned that three men were charged with assaulting prostitutes (two of these charges resulted from one incident); and that a man was tried for attempting to murder a transsexual prostitute and subsequently sentenced to six years for assault. According to these reports, another man was sentenced to four years for assaulting a prostitute, a second man to 15 months, and a third man to 8 years for attacks on two prostitutes. While the number of charges and convictions pales in comparison to the number of incidents reported in the Bad Trick Sheets, they do indicate a serious effort by the police and Crown to bring such men to justice (the man brought to trial for attacking the transsexual prostitute was extradited from California), although it is equally true that a very small percentage of them do actually end up in court.

When it comes to s.195.1 and the discovery of bad tricks, the question remains as to just how many do come to light as a consequence of propositioning a police decoy. We suspect that it is not many. As one officer explained:

> There's a screening process that goes on any time you deal with somebody. If he fits a certain profile, then you dig a little more. 95% of the time, we don't search a guy's car. He just doesn't fit the profile. He gives you a driver's license, he's fairly well dressed, he's fully employed and he's married with kids. It's possible he's an axe murderer, but you don't routinely search tricks' cars. If the guy is a little odd, depending on your feeling and the situation, you might go further. Or if the policewoman said, "Hey, this guy's really weird, he said some weird things" or he did some weird things, then you carry it further.
>
> But obviously with the new law enforcement, these guys are getting checked whereas they didn't before.
>
> *Ted Bundy was a very straight respectable guy. But how do you identify his type?*
>
> Granted. If Ted Bundy hit on a policewoman and just asked for a blow job for $40, and then we stopped him and he gave us a driver's license and was fully employed, he'd get an appearance notice and walk away. We're not going to look through his car for hankies or dirty books or anything. And I don't think we really have a right to. It's a straight summary

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[49] See e.g. Cole (ed.) Good Girls/Bad Girls p.175.

[50] In contrast, compare these to the hostile comments made by various uniform officers and overheard by a member of our research team in 1984 after prostitutes moved to the Richards-Seymour area from the West End in the summer of 1984 (Lowman, 1984, p. 311).

> conviction offence. We have the evidence there and he's produced valid identification and provided certain statements -- what right do we have to search his car? What are we looking for? What makes us believe that he does have something underneath his seats? (Detective #1, Appendix 1, p. A-24)

As to the more general hypothesis that violence against prostitutes would increase as a result of enforcement of s.195.1, most of our police respondents were generally of the opinion that it had not:

> I think the criminalization argument is a bit of B.S. I think that any man who drives up and sees a woman standing on the street corner doesn't look at her as being an ordinary woman anyway. Right away he thinks, "Oh god, she's a prostitute." Who would stand out there if they weren't the kind of person who really wasn't very particular about what she did? Maybe it's a little bit different in the case of Seymour Street area girls or some of the night clubs. But say in Mount Pleasant, the skids, and some of the places down around Seymour/Helmcken, the men who drive by there probably see some of those women as being pretty cheap socially.
>
> But as far as the women getting more victimized by the men because of the law, I don't think so. (Policewoman #1, Appendix 1, p. A-46)

Another officer argued that, because it made prostitutes more wary, s.195.1 might have made them more careful generally about the men who they agree to service:

> If anything, the law has made prostitutes more guarded about who they go with. When we observe prostitutes, we see many potential customers have a conversation with a prostitute and then drive away. That happens a lot. The law may have even afforded more protection to prostitutes in the sense that they seem to be very careful about who they go with. They do go to some lengths to check out the customer and try and ascertain whether, in their words, he's a "weirdo" or whether he's an undercover cop. (Vice Squad Administrator, Appendix 1, p. A-9)

In contrast to this view, Table 108 indicates that many prostitutes thought that s.195.1 made many women *less* wary than they had been previously because, in the face of declining demand caused by the impact of the law on the volume of trick traffic, prostitutes could no longer afford to be too choosey about which cars they got into. And one police woman leant credence to the notion that, because of fear of prosecution under the communicating law, prostitutes were less willing to report crime victimization to the police:

> Quite a few of the girls don't report bad tricks for exactly that reason; they're afraid they're going to be charged themselves. Usually, when I can get one of them talking about a bad trick, I have to make assurances to them that they aren't going to be charged for (communicating) because of what they tell me. A lot of times I'll ask them what agreement the two of them came to. They'll look at you and roll their eyes and you have to tell them that you're not going to charge them. Usually they'll tell you. (Policewoman #2, Appendix 1, p. A-55)

4. Social Worker Impressions

When it came to social workers' impressions of the incidence of bad tricks, they differed significantly from police impressions to the extent that they generally believed that trick violence was becoming more commonplace. Thus one street worker, when asked about levels of violence, replied unequivocally:

> It's on the increase. There's no doubt about that. We had one month here where we had 3 Trick Sheets. I couldn't believe it. And there's more that never makes it onto the Trick Sheets. We hear about everything from being treated in a vile fashion right up to physical assaults, rapes, attempted murders, and confinements. It's astronomical. (Street Worker #1, Appendix 1, p. A-114)

In the same vein, another street worker commented:

> There are more bad trick reports. I don't know if that's what POWER (Prostitutes and Other Women for Equal Rights) is experiencing, but in terms of our project, we're getting more reports. I think that as people have moved outside of the downtown area, they are less visible. They end up being much more vulnerable. And I think that the bad tricks are aware of that. They're also aware that women are going to be really hesitant about bringing charges when they're going to have to stand up in court and say they were working. (Street Worker #2, Appendix 1, p.120)

This respondent also noted that much of the problem of the non-reporting of bad tricks was not so much a matter of police reticence to act, but that prostitutes sometimes did not properly understand the implications of the law:

> There is the whole other issue of women not understanding the laws. They don't understand that the mere fact that they were working is not necessarily going to cause an assault case against a trick to be thrown out of court. A lot of women don't understand that. They're assuming that working itself is now a criminal activity; they don't realize that communicating in a public place, as opposed to prostitution itself, is the criminal offence.
>
> There is also some disturbing material in the Bad Trick Sheets put out by POWER where women say that they reported bad tricks to the police but that the police did nothing. If I get information like that I'm going to take the woman to the police personally to make sure that there's some action taken. It doesn't help anyone to just sit back and say the police are useless, they're not willing to help; that hasn't been our experience here. I'm not saying that we don't have problems with the police but we haven't had that kind of problem. (Street Worker #2, Appendix 1, p. A-120-121)

An Outreach worker concurred with this reasoning:

> I think there's a lot of bad tricks happening that aren't ever getting reported to the police. The police are aware of it but again, they can't charge anyone because the girls don't report bad tricks. I think it's gotten harder for the girls now that they are charged under the new law.
>
> *Some commentators say that the police will not charge bad tricks even if they are reported. Is there any evidence that police won't lay charges?*
>
> I've had two incidents where a girl has reported a bad trick and each time the two guys were charged. I think the main problem is that the girls

> won't report bad tricks. Out of the 24 kids I work with, probably each one has been abused by a date and not reported it to the police. I get the message from the kids and say to the kid, "Let's go and get a charge laid." But they don't want to bother. (Outreach Worker #3, Appendix 1, p. A-147)

5. Prostitute Impressions

Another perspective on the incidence of bad tricks is available from a series of questions on trick violence in our interviews with prostitutes. Table 105 indicates that 67.7% of our female respondents who had worked the street had been victims of bad trick since the enactment of Bill C-49. Of the 22 victims, 17 had been victimized more than once. In the case of males, 40% had been victimized, and only one had been a victim on more than one occasion. The characteristics of the incident are described in Table 106. Table 104 suggests that when female prostitutes work in off-street locations, they are much less likely to be victims of bad tricks; only 4 of 15 women (26.7%) had been victimized when they worked in off-street locations (and none of these incidents involved persons working for escort agencies).

When asked if Bill C-49 had affected the safety of prostitutes, 53.3% of the women thought that it had. When asked why they thought that it had, they responded that s.195.1 enforcement spread prostitution out making them more isolated, and thus more vulnerable,[51] or that women could not afford to be so discriminating since the regime of s.195.1 enforcement had made tricks harder to come by (Table 108).

There is some information on bad tricks in the 1984 Vancouver Field Study of Prostitution although it is not readily comparable with the results of the present study. The question on the incidence of bad tricks in the 1984 survey found only two respondents (6.7%), both of whom were relative newcomers to the prostitution business, who had not been victims of crimes committed by tricks (Table 174), but the question referred to the whole of the prostitute's working life, not to a particular period (i.e. since the enactment of Bill C-49) as was the case in the 1987-88 survey. Table 175 summarizes the characteristics of the various incidents described to us by our 1984 subjects, but using a coding scheme that is not comparable to the one used in the present study (Table 106).

Table 107 describes the safety measures employed by 1987-88 subjects to avoid bad tricks, while Table 171 depicts the measures taken by 1984 prostitutes. In 1984, 12 of 47 male and female prostitutes said that they took no such measures. But the coding of the responses in the two tables is not equivalent to the extent that in 1984 "intuition" was not coded as a technique for avoiding bad tricks. One difference in the tactics used is the employment of "spotters" (often a boyfriend) to take the license plate number of the trick's car. While other prostitutes performed this role in 1984 and still do today, the use of spotters appears to have begun (or at least resurfaced) in Mount Pleasant in 1985, an area where prostitutes are often so spread out that they cannot provide this service for each other.

6. A Spate of Killings

One of the main items of prostitution news in Vancouver daily newspapers in 1988 related to the widening realization that since March 1985 at least ten Vancouver prostitutes have been murdered (in December 1987 a spokeswoman for POWER put the number at 15[52] and there have been at least two murders since then). There has been much journalistic speculation as to whether a serial killer is involved in the murders, none of which have been solved. Such conjecture has been fueled by the activities of the "Green River killer" responsible for taking the lives of at least 40 prostitutes in the Seattle area, only 250 kilometers south of Vancouver.[53] Various police spokesmen, including members of a combined R.C.M.P. and Vancouver Police Task Force, have been quoted in local papers as saying that there is a similar modus operandi in three of the cases and that the murders are probably unrelated to each other.[54]

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[51] See the interview with POWER (Appendix 1, p. A-197-198) for similar comments.

In lieu of exact statistics on the history of prostitute murders in Vancouver it is difficult to draw many conclusions from the apparent increase in the number since 1985, although it is probably not the result of the activity of one person. In a purely statistical sense, the numbers are too small and the time series too short to allow any inferences to be made from them. But police comments about the reasons they are having so much trouble solving the murders are revealing for what they say about the relationship between police and prostitutes, and the vulnerability of prostitutes to attacks. In an article in The Province a police spokesman attributed their inability to solve the murders to the unwillingness of prostitutes to come forward to give information:

> We believe that the solution to our cases currently exists on our streets. Our investigation has been slow, but largely due to lack of information coming from the street.[55]

In the same article a prostitute spokeswoman observed that this reticence was hardly surprising given the adversarial relationship that currently exists between prostitutes and the police:

> Prostitutes, pimps and johns may cooperate with the police if (the police) wouldn't do what they were doing -- one day they're calling them names, harassing them and jailing them and the next day they're expecting them to be nice and cooperate.

In solving the murders, it appears that police find themselves in a no-win situation. They are faced with the task of protecting a group of people they are accustomed to treating as "criminals." In that Bill C-49 consolidates the "outlaw" status of prostitutes it helps to place a barrier between prostitutes and the protective service potential of the police. In the process, in a logical sense, the prostitute becomes more vulnerable to predators of all sorts.

In conclusion, even with the various kinds of information at our disposal, we cannot ascertain definitively if the incidence of violence against prostitutes has changed since the enactment of Bill C-49. It appears safe to say that it has not decreased since that time, and murders of prostitutes appear to have increased at an alarming rate in Vancouver. No matter how one interprets trends in the statistics presented here, violent crimes against prostitutes are sufficiently numerous that they raise important questions about the effect of the current configuration of Canadian prostitution laws on the general vulnerability of prostitutes to a certain style of male violence.

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[52] See Appendix 1, p. A-198.

[53] Another serial killer is believed to have murdered several women across Western Canada and the bodies of 40 prostitutes and "street people" have recently been found in rural areas of San Diego County in California (The Province 9 October 1988).

[54] The Vancouver Sun 6 October 1988, p.A10, "Serial killer discounted in hooker deaths."

[55] "Lack of street help hampering probe of deaths, police say." The Vancouver Sun, 8 October 1988, p.B12.

E. THE IMPACT OF S.195.1 ON PIMPS

One of the main criticisms made of Bill C-49 when it was being debated was that it would make women more susceptible to "pimps" in at least two ways: a) the more prostitution is forced off the street, the more third parties -- be they escort service operators, taxi drivers, bell hops, cabaret operators, or massage parlor proprietors -- are able to profit by providing the means for tricks to meet prostitutes; b) since prostitutes would be vulnerable to prosecution and generally more isolated, they would become more prone to emotional dependency on "boyfriends" and "pimps" (terminological issues are taken up below) or more likely to work for men in the hope that they would provide some protection. Since we have no way of actually measuring levels of pimping our comments are restricted to the impressions of our interview subjects.

1. Prostitute Impressions of Pimps Activities Since the Enactment of Bill C-49

Tables 114 and 172 (Appendix 4) show the responses of our 1987-88 and 1984 prostitute subjects' to the question, "Who do you share your earnings with?" In 1984 20 of 33 female prostitutes (60.6%) shared their earnings with a spouse, lover, or pimp, while 8 (24.2%) said that they did not share their money with anyone. Of the present sample 50% said that they did not share their money with anyone, while 38.2% shared it with a boyfriend, lover or pimp (no males in either sample considered themselves to be pimped). It is difficult to interpret these figures because of the difficulty of defining exactly what a "pimp" is, and because of biases created by our sampling method.

From a legal point of view a pimp is anyone who lives in whole or in part on the avails of prostitution. The wide purview of this definition has come under attack because it makes anyone taking money from a prostitute, whether freely given or not, a pimp (see the Fraser Report 1985, pp. 543-546). Thus a boyfriend, lover, or spouse, if they receive money from a prostitute, are all technically "pimps." Prostitutes, however, generally insist that there is a difference between "pimps" and "boyfriends," although they would readily acknowledge that some women delude themselves that their pimp is their boyfriend. Perhaps because of this, it is easy for observers to conclude that all prostitutes are deceiving themselves when they claim to have boyfriends, not pimps. Nevertheless, from the prostitutes point of view, a "pimp" is someone who makes a career out of living on the avails of one or more prostitutes. A boyfriend is a mate and, just like any mate, someone to pool or share resources with. One woman described the difference this way:

> A pimp is someone who is mainly concerned with making money and getting as many girls out there as possible. They had generally been involved in prostitution before you came along. A boyfriend is someone you hang around with. He may find out you're a prostitute, and he might hang

> around because you often have the money to pay for everything. But a lot of people who spend money freely, no matter where they get it, have that problem. (Female prostitute)

Certainly the two categories "pimp" and "boyfriend" are not mutually exclusive; a boyfriend can easily become a pimp. Indeed, women sometimes describe how they "turned out" a man as a pimp. Some women actively seek to work for a pimp, and the term "choosing" can refer to the prostitute's choosing a man to work for. From the prostitute's point of view, the distinction is an important one because the legal definition is so broad that it means that anyone who cohabits with a prostitute is theoretically susceptible to prosecution (our reading of the law is that a prostitute's teenage children, if they are supported by the earnings of prostitution, could technically be prosecuted for living on the avails). The issue here is whether the state has the right to dictate that someone earning money in a legal way (i.e. by prostituting) should not give some of that money to another person if they want to.

From the point of view of the present report these issues are important because they relate to how one measures "pimping." Our two samples of prostitutes are biased to the extent that they probably underrepresent the number of women working for what might be called "career" or "professional" pimps. We found in 1984 that it was extremely difficult to interview prostitutes working the Georgia Street stroll, an area which our subjects maintained was pimp controlled. Prostitutes working for career pimps, it seems, were the least likely to consent to be interviewed to the extent that their pimps would not look favourably on anyone divulging information about the business (pimps, too, rarely consent to be interviewed). The change in the number of women admitting to being pimped in the two surveys involves such small numbers and the sample may be so biased that not too much can be made from these figures, other than saying that a substantial proportion of Vancouver prostitutes do work independently.

As to female prostitutes perceptions of the effect of s.195.1 on the decision of our subjects to give money to third parties, 11.4% of them, in describing their own circumstances, said that it had (Table 115). On the subject of whether s.195.1 made it easier for pimps to gain control of prostitutes generally (Table 115), 32.3% said it had not really made a difference, 38.4% said it had made it easier for them, and 19.4% said that it made it more difficult (Table 116), reasoning that pimps would be more prone to prosecution as a result of the new law (since there were only three living on the avails charges laid in Vancouver in 1987 and 1988 we can, at least for the moment, reject this last hypothesis). The general feeling of the respondents who thought that Bill C-49 had facilitated third party control of the trade was that in making prostitutes feel more vulnerable to police power, it would make them turn more to other people, pimps included, for assistance (Table 117). The following answers were typical:

> I think hookers are getting more scared now. They may need someone to help them out when they get busted. So they get a pimp thinking he'll help them out and take care of them, and so they get sucked into all the bullshit. (Female prostitute)

> It gives the pimp a way to get onto the girl's side, its another weapon. They say to the girl, "We know all the laws, we know this, we know that, we can make it so you don't have to work that much. (Female prostitute)

One other way we attempted to address the question as to whether third parties might benefit from the effects of s.195.1 enforcement involved asking our subjects if other persons helped by introducing tricks to them. Only 33.3% of the 1987-88 subjects (Table 118), as compared to 70.7% of the 1984 sample (Table 173) said that other people referred tricks to them!

From the data presented here it is impossible to tell whether Bill C-49 has affected the ability of pimps to exert more control over prostitutes as a result of the regime of prostitution law enforcement brought about by the enactment of Bill C-49. These results do, however, suggest that Bill C-49 has not had the effect of creating much of an opportunity for third parties to profit by introducing tricks to prostitutes while they are working on the street, except to the extent that some street prostitutes work in off-street locations such as bars or through escort agencies where third parties benefit from the trade.

2. Social Worker and Police Perspectives on Pimping

Having polled our prostitute respondents on the impact of s.195.1 on pimping, we asked police and social workers for their opinions on the prevalence of pimping and any changes that might have occurred since the enactment of Bill C-49. The first series of comments from social workers indicate that only a small percentage of young prostitutes work for career pimps, although the street scene is full of hustlers who benefit from hanging out with young female (and sometimes male) prostitutes:

> *Of the 100 kids in the Outreach program, what percentage of the ones prostituting work for "pimps"? What is a "pimp" anyway?*
>
> I'd say of the 100, there have probably been not more than 10, maybe closer to 5, who are pimped in the traditional sense of the term. A lot more "pimps" fall into the "boyfriend" category; a person who may also be working the street or dealing drugs or maybe sharing a hotel room and sometimes money. I think that's a more common phenomenon. (Outreach Worker #2, Appendix 1, p. A-141)

Referring to the Downtown East Side (Strathcona, Chinatown, and the Skid Road area) a street worker suggested that few career pimps operate in the area:

> *Has it been easier for pimps to control the trade?*
>
> In our end of town, we don't have "pimps." We have "boyfriends" down here, but we don't have the classic pimp down here. This is a pretty independent area. Pimps are actively discouraged, laughed at, spit upon. The women down here, being skid row, they've worked a long time and so they don't listen to the bullshit.
>
> The people who are still new in the business will listen to the line and buy into the pimp's rap. But that's mostly up town. (Street Worker #1, Appendix 1, p. A-114)

Another street worker gave very much the same picture of East Side prostitution, although he believed that there had been an influx of what he referred to as "heavy duty" pimps into the area:

> *(One) criticism of the law is that it makes it easier for pimps to take control of the trade. Do you think that has happened?*
>
> Yes. This area traditionally did not have a lot of pimps involved in prostitution.
>
> *Even the "boyfriend" type of pimp?*
>
> I think that we had a fair bit of that. We've still got that type of pimp today, but now we're seeing more of the heavy duty pimps -- the ones who are beating on their women a lot, the ones who are working them incredibly long hours.
>
> *You perceive a "boyfriend" as basically just a person's partner.*
>
> In some cases that's all he is. I'm seeing more partnership. What we've been doing as social workers is connecting with couples and then trying to, first, find work for the man. If you can get him employed, then suddenly, you've got the woman no longer having to work. Then she can look at whatever kind of job opportunities we might be able to plug her into. I feel that there are a fair number of employment programs that provide opportunities, but it's really difficult unless you've got one income in hand.
>
> The pattern that you usually find down here is couples living on social assistance where the woman ends up working the streets. Her man, for the most part, does not like it. He's out there spotting for the woman, but not happy with the situation at all. He feels a fair bit of embarrassment. That often makes it difficult for us to get involved with the couple. We've got some good connections with lawyers in the community so that when people are charged, these are the first couple of steps that we'll make in terms of developing a working relationship with them. (Street Worker #2, Appendix 1, p.121)

Like this East Side street worker an Emergency Services worker, talking mainly about young prostitutes operating in the Richards-Seymour area, similarly recognized the distinction between pimps and boyfriends, but also recognized that young prostitutes could be exploited in a variety of ways:

> There are pimps and there are pimps. In this part of town (Davie between Richards and Seymour) I would tend to say that a lot of kids are not working specifically for a pimp. A lot of kids have "boyfriends" who live on the money that the kids earn, but they would not be called pimps by the girls. A lot of kids are involved with guys who supply them with drugs; the drug money is supplied by earnings from prostitution. So, generally those kids don't go home with the money that they earned that night; it's gone here for this, it's gone there for that. The way that the drug deals work out on the street is that these kids are constantly in a deficit position. They always owe drug money. This is the way that drug pimps exploit them. The first time the drug's given for free, next time it's a good price, next time they hear, "You owe me for the last time." So any time the dealers want to snap their fingers and say pay up, the kid then feels obligated to get out there and earn the money or there will be terrible consequences. They usually have been threatened with violence. There's a certain level of control maintained in this way.
>
> *So they're an exploited group but one might not necessarily be able to fit the form of exploitation into the legal definition of pimping?*

> Exactly. In fact, most of these guys are well known to the police. One of the ways that we have been able to address the problem of pimps specifically is in terms of the Family and Child Services Act. There's a section that allows our Ministry to go to court and ask for a restraining order against someone who is not in the best interests of the child. We have obtained restraining orders against pimps and have obtained the co-operation of police in serving them. And that has worked. But that's only been in 5 cases or so. A lot of times, we do not know who is involved. (E.S. Worker Appendix 1, p.131)

We generally found that our police respondents, while recognizing that prostitutes distinguished between pimps and boyfriends, saw no real difference between the two to the extent that they were technically both living on the avails of prostitution -- if there was a difference, it was that the prostitute, and sometimes the boyfriend, just didn't realize that he was a pimp. Bearing in mind the number of prosecutions in Vancouver for living on the avails, when asked if s.195.1 enforcement made it easier for pimps to gain control of prostitutes, one officer thought it could not get any easier than it already was when Bill C-49 was enacted:

> Basically, in Vancouver anyway, pimps are pretty well free to do their business. There's no way we can get them. We can't get them for procuring. These guys play heavy. And the girls all know that -- they don't think that we can protect them. And they can't go over to another city and work there, because these guys have links from city to city. They trade their girls from city to city, so they don't feel they have the protection. As long as they're going to work, they know they can't get away from pimps.
>
> *What proportion of the hookers here are pimped, do you think?*
>
> About 50%. Again, the girls will never admit it. But through our observations, we know they have pimps. I'd say that probably half of them have pimps. (Detective #2, Appendix 1, p.37)

An alternative view is offered by two women representing the organization Prostitutes and Other Women for Equal Rights. They believed that in Vancouver the majority of prostitutes operate independently:

> I don't think Vancouver has gotten worse since 195.1 was revised as far as the stereotypical pimp is concerned. Vancouver has always been fairly pimp free. There have been areas where women have been controlled by pimps but you don't see a lot of it. In this city, it's pretty easy to get away from a pimp.
>
> *Why?*
>
> It has always been a much easier place to work. Prostitution is less underground. There has been less organized crime. You hear about the bikers controlling Halifax. I know there are women in this city who work for bikers, but you don't see the bikers out on the street. You see a few of the other pimps being obnoxious or getting hungry as we call it. They'll go out and bother the women and tell them they want them to work for them. The women around here tell them to take a hike.
>
> When pimps have come out onto the street and harassed women, we've always put them on the Trick Sheet. A couple of times we've had calls saying "You've got me on the Trick Sheet", and our reply is "If you stop acting like an asshole, we won't have to put you on the Trick Sheet." That has helped to stop them. (POWER, Appendix 1, p. A-206)

> *There are no signs of organized crime in Vancouver in the prostitution scene?*
>
> We haven't seen any of it. If there is, it's not on the street. It's well hidden. I'm sure there is some hood that has a stable or something somewhere. We know 3 or 4 women who work for the same guy but you don't see the women black and blue or being afraid. (POWER, Appendix 1, p. A-200)
>
> I've worked for 8 years. I have never seen anyone coerce someone to work for them. When they say you "choose" a pimp, you really do choose, but you may do so for really bizarre reasons.
>
> It might be for the simple fact that you want to belong to a particular group or because you feel it will give you status. Or because you feel it will get you economic betterment. There was a 17 year old who chose 7 guys in 7 days. She was flitting. You never knew when you went out there who she would be with next. She has since grown up and gotten off the street. She's quit because it was something that she had to work out for herself. (POWER, Appendix 1, p. A-200)

Generally, there is a considerable amount of disagreement among the commentators represented here as to the extent of pimping in Vancouver. Indeed, there is no consensus about just who should be included under the term "pimp." At the core of the definition is the man who deliberately seeks out women to prostitute themselves for him, although the wide purview of the living on the avails statute means that a man spending any time with a prostitute who spends money on him can be defined as a pimp. Apart from the perception of some of our commentators that pimps have been able to exert more control over prostitutes because women feel more in need of protection as a result of the threat of prosecution posed by s.195.1, there is no tangible evidence to suggest that career pimps have extended their grip on prostitution since the enactment of Bill C-49. To the extent that s.195.1 does force some women off the street, it creates the opportunity for escort agency operators to exact direct profit and certain clubs owners to exact indirect profit from prostitutes and their customers by creating ways for them to meet. Escort agency operators who are aware that their employees sell sexual services would seem to be both procuring and living on the avails of prostitution as they are currently defined in the Canadian Criminal Code, although the fact that they do so probably means that street prostitution in Vancouver is not more extensive than it already is.

F. IMPACT OF 195.1 ENFORCEMENT ON YOUTHS: SOCIAL WORKER PERCEPTIONS

Our interviews with social workers suggest that there are currently about 300 to 400 "street kids" in Vancouver (of whom about 80 are Native Indian),[56] although precise numbers are difficult to estimate as youths move from city to city and on and off the street. These social worker estimates relate to persons under 19 (i.e. those falling under the jurisdiction of the B.C. Family and Child Services Act). The data on offences involving youths presented in Appendix 3 refer to anyone over the age of eleven and under the age of eighteen in accordance with the Young Offender's Act as it applies to British Columbia.

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[56] See Appendix 1: E.S. Worker, p.125; Outreach Worker #1, pp. A-133-135; Outreach Worker #3, p. A-147.

A "street kid" is a youth who lives mainly by either the proceeds of crime (illicit drug dealing, theft etc.) or various kinds of hustling such as prostitution, often in combination with a government income supplement or other kinds of support, and who usually lives apart from her/his natural (or foster) parents (some of them reside at home intermittently, most have left home permanently). A substantial proportion of them have become wards of the state (or will by the time they turn 19).

A fairly comprehensive profile of the ages of young prostitutes is available from several different data sources. In 1986 and 1987 charges were laid against 99 individual female and 11 male youths.[57] 10% of the total number of charges laid against prostitutes in 1986 and 1987 involved youths. It is possible that the number of youths in the three different strolls varies. Identity checks carried out in Mount Pleasant in the summer of 1987 by Task Force personnel show that of 246 different persons checked working in the area 14.5% were aged 15-17 (about 1 in 7); none were younger than 15.[58] Almost 80% of the youths in our sample of Youth Court s.195.1 cases were 16 or 17, and 18% were 15. There was one 14 year old, the youngest person in the sample (Table 10, Appendix 3).

Although there is a widespread perception among social workers that the number of youths on the street is increasing, we have not managed to find data that would allow us to draw firm conclusions about trends in numbers of youth prostitutes operating in Vancouver during the 1980s.

While the interviews provided a general description of the operation of the social service system for street youths in Vancouver, our commentary focuses on the perceived impact of s.195.1 on youth prostitutes. Most of this information relates to young female prostitutes since only rarely do young male prostitutes (of whom there are not nearly as many) find their way into the social service system.[59] Indeed, of the female street kids processed through the provincial social service system, most of them have prostituted themselves at one time or another.[60]

Our discussion of the perceived impact of Bill C-49 on youth prostitution concentrates on the two main types of response that we received:

1. S.195.1 empowers police and social service authorities to intervene in the lives of young prostitutes and, even if only temporarily, enables them to be targeted for investigation and, once a charge has been laid, to be physically removed from the street.

2. While it cannot be denied that s.195.1 has facilitated physical intervention, the question remains, "Intervention for what purpose?" Where our social service respondents disagreed is the extent to which the use of the criminal law to control youth prostitutes is desirable. At issue are questions long debated in the annals of social science and social policy -- the role of "criminalization"[61] in the provision of social service to youths and the effectiveness of compulsory "help." The main

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[57] Of 158 charges laid against youths in 1986 and 1987, 48 involved repeat offenders (Table 60).

[58] There were four 15 year olds, fourteen sixteen year olds, and twenty three 17 year olds.

[59] We have not encountered any youths charged as tricks.

[60] One social service administrator noted that almost every youth in the "Outreach" program, the main Ministry of Social Services and Housing program for street kids, had at one time or another worked the street (Outreach Worker, Appendix 1, p. A-135).

[61] Technically, the Y.O.A. does not "criminalize" a youth. Nevertheless, they, are through the charge and conviction process, labelled as outlaws.

negative impact of Bill C-49 reported by social workers is that it has meant that youth prostitutes are increasingly dealt with as "offenders" in a way which might serve to entrench them in street life.

We also present the arguments of several respondents who questioned the ideology of a social-political system which, despite the enactment of s.195(4) in January 1988, extensively criminalizes youth prostitutes but not their customers.

1. Impacts of s.195.1: A New Method for Intervention

According to several social workers (and all of our police respondents) the new version of s.195.1 provides the opportunity to intervene in young prostitutes lives -- in a way that the old version of s.195.1 after the Hutt decision did not -- when few other legal resources enabling intervention are thought to be available in British Columbia. Besides the Federal Young Offender's Act, the other two Acts relevant to the control of youth prostitutes, the Family and Child Services Act and the Mental Health Act, are provincial. As far as we can ascertain, the Mental Health Act is rarely used in the case of young prostitutes by virtue of the fact that they are prostitutes, although youths involved in prostitution do pass through the mental health end of the criminal justice-psychiatric-welfare system. The Family and Child Services Act empowers authorities to intervene in cases where it is apparent that a child is in need of "care and protection," but only so as to remove them from their parents' or guardian's care in order to make them wards of the state. Once a youth has been made a ward of the state, it appears that he/she is free to run away from foster homes and group homes whenever they like. Police constantly complain that they take youths to provincial social service offices only to find them back on the street a few hours later (e.g. Mount Pleasant Liaison Team, Appendix 1, p. A-67-68).[62] As one social worker put it, "We can apprehend the kids all we want, but we can't physically drag them somewhere and force them to stay there" (Outreach Worker, Appendix 1, p.129).

There were two main senses in which Youth Court intervention was thought to be effective:

> a) Through the use of s.195.1 certain highly self-destructive youths (such as heavy talwin-ritalin users) thought to be endangering their lives could be targeted for removal from the street in the hope that they could be counselled (intervention as a tool of last resort).
>
> b) Legal interventions provide external disciplinary structures beneficial to some youths (intervention as a disciplinary technique);

What follows is a description of each of these two constellations of opinion and the caveats that usually accompanied them.

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[62] For a general description of the powers and appllication of the Family and Child Services Act, see Family Court Crown (Appendix 1, pp. A-103-104), Street Worker #1 (Appendix 1, pp. A-112-113), Street Worker #2 (Appendix 1, p.122), E.S. Social Worker (Appendix 1, 126-127), Outreach Worker #1 (Appendix 1, pp. A-137-138), Outreach Worker #2 (Appendix 1, p. A-141-142), and Outreach Worker #3 (Appendix 1, p. A-145).

a) Criminalization as a Tool of Last Resort

One of the most frequent police complaints about the operation of the youth social service system prior to the enactment of s.195.1 was that, by virtue of Ministry of Social Services and Housing policy or as a reflection of provincial legislation, youths were rarely confined unless convicted of an offence. One suggested positive effect of s.195.1 was that in lieu of any other mechanism, it allows police, often through information provided by social workers, to target youths who are thought to be in immediate danger of self-destructive behavior, and physically remove them from the street.[63] In this sense, even though one outreach worker was not impressed with "criminalization" as a way to deal with youth prostitutes, he would have no hesitation in resorting to police power in certain situations:

> I'm against stigmatizing the kids. But if I'm given a choice between seeing a kid kill herself on the street and criminalizing her, I'd prefer to criminalize her. I'd rather go through that process but I'd be pragmatic about it. I consider Willingdon safer and securer for certain kids who have lost control of themselves than their being on the street...(Outreach Worker #2, Appendix 1. p. A-142)

Like most social workers, this respondent believed, however, that the power to remove youths from the street should be provided in some form of legislation other than criminal law under the guise of the Y.O.A.. His point is that the choices should not be limited to two extreme alternatives -- criminalization or letting youths "run amok:"

> Rather than relying on a system of criminalization, I think we have to develop a much more collective and comprehensive service to address all these kids' needs. These kids are all traumatized. They're continually abusing themselves. There's suicidal behavior, mental health problems, there are a lot of drug and alcohol addicts, a lot of physical health problems (a lot of them experience extremely violent relationships), a lot of educational needs. There are so many issues that impinge on social service ministries in B.C. that we need a much more coordinated effort. (Outreach Worker #2, Appendix 1. pp. A-142-143)

b) Intervention as a Disciplinary Technique

Before the enactment of Bill C-49 young female prostitutes seldom came under the ambit of the courts for prostitution related offences. The effect of Bill C-49 has been that most of these youths are now prosecuted, and as a result have a variety of probation conditions (residence requirements, area restrictions, curfews) imposed upon them. Several social workers thought that such restrictions could have a beneficial effect on some youths:

> Exposure to the court system as a result of the street prostitution law has tended to help those kids who are not very entrenched in street life. Going through the court process, being given area restrictions and curfews (or

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[63] One problem from a control perspective, however, is that because s.195.1 is a summary conviction offence, youths cannot be sentenced to "secure custody" once found guilty. While it may be possible to hold a youth prior to trial, at least for a few days, s.195.1 does not provide authorities with much custodial power. Youths can be sentenced to secure custody for certain breaches of court orders.

> whatever form intervention takes) is helpful to some kids; it gives them a new set of motivations to get off the street. For other kids, it's resulted in repeated breaches and total criminalization -- constant recycling through the court system. This is especially true of kids who are very addicted to drugs -- criminalization doesn't matter to them if they're addicted to T's and R's (Talwin and Ritalin) and heroin. Those kids are constantly ending up back in court or they go totally underground. Sometimes they leave the community and go to another city...
>
> Most of the kids abuse drugs and alcohol. As to the serious addicts, the T's and R's, I'd say (that includes) no more than 2% to 3%. of the kids who we deal with. Of the kids I've dealt with over the last 2 years, I've noticed about half a dozen addicted kids to whom the street prostitution law made no difference at all. For maybe another 15 kids, it helped facilitate them getting off the street -- it gave them a form of external control at a time when they lacked internal control. Perhaps over time with the appropriate intervention, they would have gotten off anyway. These kids are highly motivated and are not going to be in long term care anyway, I would think. So it helped facilitate them getting off the street a little sooner than they might have done otherwise. (Outreach Worker #2, Appendix 1, p.139-140)

Similarly, another Outreach Worker commented:

> For the more self motivated kids, I think (s.195.1) has been really beneficial. It gives (kids) a structure, perhaps the first structure they've responded to. And it slows them down, it gets their attention a little bit. (Outreach Worker #1, Appendix 1, p.137)

This respondent also suggested that court imposed restrictions could have some positive impacts on youths:

> For the low functioning, dependent types of kids, (area restrictions do) provide an external structure for them. They can say to their peers, "It's not that I don't want to be out there with the rest of you on the streets but I can't because of the judge". I've seen that working. I've got feedback from group homes and feedback from special care parents that they see differences in the kids once they have an area restriction or a clear probation order. But these structures are only as good as the enforcement of them. If a kid sees a cop once or twice and gets away with breaching an area restriction the structure breaks down.[64] (Outreach Worker #1, Appendix 1, p.138)

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[64] As with our police and Crown respondents, social workers also regarded this type of inconsistency as undermining the positive effects that any prosecution might bring. The vagaries of court orders, the capriciousness of sentencing and judges variable attitudes turn the criminal justice system into a game to be played and endured, rather than a successful disciplinary ritual guided by a coherent philosophy:

> There is not much consistency in the way that different people are dealt with. Some judges and prosecutors are aware that the youths involved have a variety of problems to deal with. Then you get other judges who want to throw the book at the kids. The kids get to know which judge they want to go before. The kids talk amongst themselves: "How come you got off when we were both charged with the same thing?" They're confused and they're angry. All the experience does is increase their disrespect for the system. (Outreach Worker #3, Appendix 1, p. A-148)

Nevertheless, his general conclusion was that:

> (O)verall, the positive impacts of the street prostitution law are not that great... I don't think punishment or criminalizing (youth prostitutes) in itself will help them. But we're struggling for ways to get these kids' attentions. The law is one way of doing that. In that sense I would support use, but not over use of the law. The law provides clarity for the kids about what's acceptable within society and what's not. (But) you need a network of services to be able to do that, since presenting only the criminalization message to the kid is inappropriate -- there have to be alternatives for the kid. (Outreach Worker #1, Appendix 1, p.136)

This respondent's statement that s.195.1 has had little impact on the overall practice of youth prostitution in Vancouver probably speaks for most of our social work respondents, and few of them would disagree with the idea that a variety of approaches to youth prostitutes should be adopted.

Several of our respondents thought that the use of s.195.1 to control youth prostitution might serve to hinder rather than facilitate social work with young prostitutes, and further entrench them in street life. For these respondents, as we shall see next, the communicating law has virtually no redeeming qualities.

2. Criminal Labelling and the Consolidation of Street Culture

Because s.195.1 is one of the only ways of intervening in the lives of youth prostitutes it has been turned to more and more as a way of "getting a handle" on female street youths. Indeed, it is often felt to be the only way of getting a handle on them (Outreach Worker #2, Appendix 1, p. A-142). Echoing a central theme of "labelling" perspectives in social science, one of our respondents, even though acknowledging the value of legal intervention in helping to structure (i.e. control) a youth's life, lamented the stigmatizing effects of the labelling process:

> I was talking to a mother yesterday, her daughter did her first trip down to the streets and got her first soliciting charge. That was quite a trauma for the mother. The daughter is still on the periphery of a regular school. It's known now that she's been down to the streets, so its traumatizing her too. I hope it's going to be a positive experience for other, external reasons.
>
> The labelling is really hard -- you've had a communicating charge, therefore you are a "prostitute". The kids have a hard time, but the home communities have a harder time. It's like the Scarlet Letter is branded on the kid's forehead. Social services can consolidate that image... The down side of criminalization is that it really boxes the kids into certain stereotypes and beliefs. (Outreach Worker #1, Appendix 1, p.137)

In this way the status of "offender" all to easily becomes the master status of the youth so that the social context of their prostitution almost disappears from view:

> The negative impact (of s.195.1) is that ... it stigmatizes kids. The police response tends to view street kids as criminals first, children second. I think criminalizing the kid's behavior takes that behavior out of its social context. If we're at all interested in changing that behavior, I think it has to be put back into its social context. In the case of a lot of these kids, it just

> introduces them to the criminal justice system -- and a lot of them will never make it back out. (E.S. Worker Appendix 1, p. A-129)

In taking up this same general theme another respondent emphasized the broader social and ideological implications of a social, legal and institutional response which treats youth prostitutes as offenders rather than as victims, and thereby serves to entrench them in street culture by contributing to and consolidating their "outlaw" identity. Ultimately, this line of reasoning led to a questioning of the basic value system which extensively outlaws youth prostitutes while taking virtually no action against the men who purchase their services:[65]

> For the children, it's disastrous because they get charged over and over again while the adults who buy the services of children, since there are no child cops, go free. The children are really encouraged to see themselves as offenders while the men who buy them remain unstigmatized. The anti-authority stuff that is part of a street kid's attitude is really enforced. Their self perception as a victim of the system gets reinforced. So, that leads to a much more ready investment on their part in the sub cultural identity of the street...
>
> The real tragedy though is that none of the adult consumers of children get charged. So the child gets this real weird message that in fact he/she is to blame, the adult world isn't. So they get to learn some skills about how to avoid detection, arrest, etc. and what to do if you're busted -- you get a slick lawyer.
>
> I guess in a nutshell, what I'm saying is that it would be better if we couldn't even charge children. It would be better if we just viewed children who were selling themselves in the consumer sex market as children who are getting sexually abused...
>
> I find it really appalling that the enforcement of 195.1 against kids serves to legitimate their role in prostitution. It's like the punctuation at the end of a sentence. It gives the idea of juvenile prostitution credibility. If the law was really progressive, it wouldn't even be applied to those children. (Street Worker #1, Appendix 1, p. A-109)[66]

What compounds this problem for this commentator, is that s.195.1 is more and more becoming the conduit through which youths enter the social service system. More and more social work takes on a disciplinary character, a form of bargain-control, as social service delivery for the recipient becomes a privilege dependent on a youth's conformity to a variety of moral scripts. In this way, unless the youth submits to external authority, services are withdrawn so that the she has few options other than prostitution. As one of the street workers explained:

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[65] Part of this concern about the moral philosophy of the law and the image of the offender and victim that it creates was assuaged by the creation of Criminal Code s.195(4) which makes it illegal to purchase or offer to purchase the sexual services of a juvenile. Nevertheless, the fact remains, that only one charge had been laid in Vancouver under this new provision in the first six months of its existence. As of the time of writing, we are aware of only two newspaper articles even mentioning this new legislation, and there has been no publicized pressure for the police to enforce it. The contrast between the newspaper coverage of the first six months of s.195.1 enforcement and the campaign that led up to its enactment as compared to the first six months of 195(4) enforcement is a powerful commentary on how public attitudes towards prostitution are translated into law enforcement priorities.

[66] This sentiment that law enforcement should be aimed primarily, or only at the consumers of youth prostitutes was shared by several respondents (see particularly E.S. Worker, Appendix 1, p. A-129)

> I've got a real weird situation now where I've got a kid, 17, living over here in a hotel with her boyfriend. She's been out on the street for a long time. She's not working. Her mom won't consent for her to go on income assistance and neither will the Ministry of Social Services and Housing. They won't apprehend her either because she isn't hooking at the moment. So, basically, we have a system that wants to wait until this kid hits the street and actually hooks so that they can step in and help her.
>
> But they won't help her. They won't give her income assistance if she lives with this boyfriend. So, what's the real issue? Living with her boyfriend? Making sure we keep her moral and pure? After she's been sucking cock for a living? That's really absurd. That's how ridiculous the policy gets.
>
> So I phone the offices of the Social Service bureaucrats and they say, "Well we can't give her the OK to live with him." I say, "Well that's not the issue." I tell them what the issue really is: "If we pay her rent, she won't have to work on the street to pay the rent." But they say, "We can't pay the rent to have her live with him." And so we're stuck. They would rather see the child go out and do certain sexual acts for money to pay the rent, rather than take the chance of the agencies being perceived as condoning a child living in a sexual relationship with another person of approximately her own age.
>
> That's got to be one of the dumbest aspects of the service system, and it's the most frequent one. That's the major issue confronting the Ministry now, what to do with the older adolescent, i.e. late 16 years of age up to 19 and 20, people too old for a group home. People wanting to be independent. These people have got to be willing and able to live on $325 a month and you can't live with anybody you're sexually involved with.
>
> And we wonder why these kids end up out on the street and still working. It's because we make access to the economic services so full of moral constructs and crap that it just becomes an incredible deterrent to these people using them. Nobody acknowledges that some of these relationships are positive. If we are so concerned that living relationships are damaging these children, then surely we should be as concerned about the consumers of sexual services. (Street Worker #1, Appendix 1, p. A-113)

Following this kind of reasoning, another street worker questioned whether the increasing social service reliance on s.195.1 as a device for netting youths was ultimately a productive strategy. Generally he felt that the social worker's imbrication with the policing process impedes the development of a successful relationship with a youth:

> Social workers are in an impasse -- it's difficult to get kids into placements or deliver any kind of services. It's difficult to get them into school and so forth. We're finding it harder to hook up with the kids. There is very little creative social work in Vancouver, very little placement planning. There are very few people working with kids at the street level.
>
> Instead of using any of those options, social workers target kids for Vice. They seem to hope that a probation order is going to get a kid restricted to a certain placement and a certain area and that such restrictions will enable the social worker to provide services. Kids then are aware that the social workers are part of the process that gets them into jail. And that, in turn, drives them further away from social services...

> I don't think social workers playing the role of "significant other" for a kid should be labelling kids as "criminals." We all know that many of the kids who are working the streets are sexual abuse victims and survivors. I think the way in which we reflect their image of guilt back on to them is really significant. If a social worker treats a kid as a criminal because they're prostituting, I doubt that they'll have a very effective working relationship with that kid...
>
> A relationship with a client predicated on the client's jumping through hoops that you create isn't usually productive at all. All that it achieves is establishing that you're the one attempting to be in power. Most kids on the street aren't going to accept that. They'll just see it as bullshit and they'll run from it. Then the chance of anyone connecting with them is really remote. We spend a lot of our time trying to convince other social workers that they can't deny services to the kids. Denying services either makes the kid work on the street to avoid you, or it makes them work more than they would do otherwise. Most of the workers that we're dealing with don't see that. (Street Worker #2, Appendix 1, pp. A-117 and A-123)

Obviously we have touched here on some of the fundamental questions that surround the interface of policing and social work in contemporary Western societies. In the case of each of the social workers we interviewed, there was either a feeling of ambivalence about the desirability of prosecuting youth prostitutes, or an outright rejection of it. Those who felt ambivalent thought that s.195.1 had not had a great deal of impact on the overall number of youths working on the street, although it probably had deterred some neophytes. There was a general consensus among those respondents who saw some positive effects of the law that at most, the criminal law should be a supplement to other types of response to youth prostitution and it was generally felt that the customers of youth prostitutes should be the main object of law enforcement. Two street workers felt that the use of s.195.1 had no positive impacts on youths whatsoever, because it tended to further entrench them in street life.

G. S.195.1 IN THE NEWS

The results of our analysis of newspaper commentaries on Bill C-49 and the subsequent performance of s.195.1 are presented in Appendix 7 (Tables 184-197) and Figures 19-21 (Appendix 9). Abstracts of articles are provided in Appendix 6. Table K below indicates the number of articles appearing between January 1985 and March 1988. The counts presented in this table include all articles mentioning any of the following terms: prostitute, prostitution, Bill C-49, and Criminal Code s.195.1 (or any synonyms for these terms). In Table K, articles are distinguished according to whether they make any reference to s.195.1 or not.

TABLE K

NUMBER OF VANCOUVER NEWSPAPER ARTICLES MENTIONING BILL C-49/S.195.1

		1985	1986	1987	1988
Sun:	Mean per month	2.4	5.0	2.2	2.7
	Total	29.0	60.0	26.0	
Province:	Mean per month	1.0	3.6	0.8	3.0
	Total	12.0	43.0	10.0	

Articles Mentioning Prostitution, But Not Bill C-49/S.195.1

		1985	1986	1987	1988
Sun:	Mean per month	7.4	5.6	6.6	7.0
	Total	89.0	67.0	79.0	
Province:	Mean per month	8.2	7.1	7.5	10.3
	Total	98.0	85.0	90.0	

Tables 184-197 relate only to items mentioning Bill C-49 or s.195.1, and deal only with the years 1986-1987. Tables 184-193 provide various descriptions of the location and contents of the articles. These tables show that s.195.1 was more frequently a topic of commentary in the Sun than in the Province (Table 184), a reflection of the fact that the Sun appears to have contained much more extensive coverage of court cases than its counterpart (Table 190 indicates that court proceedings were the most frequent "trigger" of a newspaper reference to s.195.1).[67] The revised law made the front pages of the Sun on nine occasions, but not once in the Province. As might be expected, most of the coverage of s.195.1 occurred during 1986, although it has occasioned on-going coverage as various commentators have called for further law reform (in the first three months of 1988, s.195.1 was mentioned in 17 articles in the two papers; see Figure 20). Table 189 suggests that much of the discussion of s.195.1 is generated locally since only 13% of the mentions we recorded came from articles emanating from wire service information. In these references to s.195.1, the "race" and gender of prostitutes (Tables 191 and 192) are rarely mentioned.

Tables 194-197 summarize types and sources of commentary on the communicating law. In describing this material, we first present a narrative account of the themes characterizing the articles we collected from January 1984 to March 1988. We then provide a quantitative summary of the reported attitudes and perceptions of persons commenting on s.195.1 since its enactment in December 1985.

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[67] These figures include the events stimulating letters to the editor.

1. Prostitution News Highlights

a) 1984 Highlights

-- The Fraser Committee Hearings took place in Vancouver in January. News coverage reported presentations made by CROWE, women's groups, the Alliance for the Safety of Prostitutes, counsel for Vancouver city, a former judge, and the M.L.A. for the West End, where the major prostitution stroll was located at that time. Submissions ranged from accusations by CROWE that prostitution caused falling property values, to discussions of the problems faced by prostitutes in their early lives and in their present lifestyle.

-- Counsel for the city of Vancouver proposed a bylaw against tricks. Comments were made in support of the suggestion in that it was felt it would be a measure of controlling the street trade and eliminating the hypocrisy of targeting prostitutes alone. Others, however, felt that this would have no more effect than the current laws, or that it would give police too much discretionary power.

-- Early in the year the Federal Justice Minister announced plans to introduce tough amendments to prostitution law, including proposals to charge customers and make a car a "public place," but said he would wait for the Fraser Report to be completed before making the changes. The NDP Justice Critic disagreed with the proposals, stating that prostitution should be removed from the Criminal Code. Later in the year the Justice Minister informed the B.C Attorney General that the amendments to the Code would be tabled in January 1985.

-- Shame the Johns, a resident action group in the West End, formed after a column and an editorial in one of the local newspapers described a similar group in the U.S.. The group began 'vigilante' action -- walking the streets, surrounding prostitutes, and threatening to take customers' license numbers and contact their wives.

-- The B.C. Attorney General asked the B.C. Supreme Court to grant an injunction prohibiting street prostitutes from working in Vancouver. An injunction banning prostitutes from the West End was ultimately issued. Most prostitutes, on the advice of their lawyers, moved east of Burrard Street and then east of Granville before the injunction was granted; some, however, were issued nuisance writs (after the injunction was in place 21 prostitutes were charged as a result of being found in the West End). Prostitutes voiced fears about being isolated as competition moved them into more remote areas, posing a danger to them.

-- Prostitutes were reported to be moving into the Mount Pleasant area as a result of the injunction, and resident complaints in that area were given high profile in the news. Mount Pleasant residents talked of forming an aggressive "Shame the Johns" type group. The Mount Pleasant M.L.A. demanded that the government bring in tough laws against "soliciting."

b) 1985 Highlights

-- A prostitute was found strangled on Broadway, in the vicinity of the new stroll area in Mount Pleasant. The case was followed quite extensively and provoked outcry from the Alliance for the Safety of Prostitutes, Rape Relief and Women Against Violence Against Women; it was said that moving the prostitutes into Mount Pleasant made street prostitution more dangerous because the women were spread out and the streets were darker than the West End. However, police and the woman's family felt that the murder might be drug-related. A number of assaults against prostitutes were reported.

-- The increased presence of prostitutes in Mount Pleasant early in the year became a source of many resident complaints which increased in intensity through the course of the year, culminating in a "sleep-in" by about 15 people at City Hall in September. Activists asked for an injunction similar to the one granted in the West End in 1984, but were unsuccessful. Under attack for not doing anything about the situation, the Attorney General said that the NDP was responsible for blocking the passage of Bill C-49. In order to stem the complaints, an informal "red light" district was established in Mount Pleasant. Residential areas were cordoned off by the placement of street barricades so that only streets in an industrial area of Mount Pleasant could be used as a stroll (Map 14b). There was also discussion of a plan to install lights in the area to ensure prostitutes' safety. However, none of this met with much approval from local residents who objected to such an area being established only a few blocks from their homes.

-- The Fraser Report was released in April. Much attention, both positive and negative, was given to recommendations that women be allowed to work in their homes in pairs, and that prostitution offences be largely removed from the Criminal Code. *A newspaper survey of Vancouverites showed that most people agreed with the recommendations; however, the Mayor disagreed and felt that much stronger measures ought to be taken to control street prostitution*. Prostitute spokespersons feared that government regulation would be just another form of pimping.

-- The Top Hat escort agency trial received widespread attention for the defence lawyer's allegations that top Provincial Government Ministers were known to patronize the agency. One of the issues raised during the trial was the controversial police use of video taping to gain evidence about the private behavior of escorts with customers. The part owner of the agency claimed throughout the trial that she was not aware that her escorts were providing customers with commercial sexual services. She was subsequently found guilty of procuring and living on the avails of prostitution, but was given a minor sentence by a judge who lambasted the "Victorian" nature of Canadian prostitution law. This case prompted a long series of articles about escorts and escort agencies. Much of the news focussed on various pleas to stamp out escort services. Critical of this movement, other commentators noted that the law is hypocritical in that it prevents prostitutes from working on the street, but still can be used against off-street organizations (such as Top Hat). Given that law enforcement is aimed at prostitution no matter where it occurs, the obvious question becomes: if prostitution itself is legal, why is there nowhere that a prostitute can legally practice the trade? In the wake of these articles, the municipalities of North Vancouver and Surrey required agencies to take out a special operating license. North Vancouver Council asked why it should not revoke escort licenses since such services were known to be involved with prostitution. Vancouver City Council decided not to revoke licenses of escort services, but only by a margin of one vote.

-- Both the Top Hat case and the creation of the "informal" red light districts revived discussion of the assertion that the only way to solve the street prostitution problem was for the state to license brothels.

-- The first discussions about the AIDS risks facing prostitutes appeared; one commentator advocated the mandatory testing of prostitutes. The Alliance for the Safety of Prostitutes maintained that education, not testing, was the best way to prevent the spread of the disease. No prostitutes had been reported as testing HIV positive.

-- The Justice Minister announced proposed changes to the soliciting law. His comments provoked much attention and controversy. Civil Liberties groups, women's groups, the NDP and the Bar Association felt that the measures being proposed would be counter-productive and a threat to civil liberties. By driving prostitutes underground, it might make them susceptible to pimps, and more prone to violence. Police spokesmen and the Vancouver Mayor, in contrast, supported the Government's proposals. The NDP Justice Critic said his party would try to block Bill C-49, but it was passed on 20 December 1985. The Minister of Justice and Vancouver Police spokesmen claimed that the streets would be cleaned up in a matter of days.

c) 1986 Highlights

-- Early in January the police began laying charges under the new version of s.195.1. At this time there was much discussion of the merits and philosophy of the law. Those opposing the law felt that it made prostitution more dangerous for women and that it was unconstitutional and unfair. The residents in Mount Pleasant hailed the law as a victory, saying that it would solve the problems in their neighborhood. Following the enactment of the Bill, newspapers kept track of the number of prostitutes and tricks throughout the year. The number of charges was sufficient to prompt a comment from Oakalla Regional Correction Center that the jail was overcrowded with women awaiting trial and that women were being held in an old section of the jail which hadn't been used for years.

-- In February the first convictions were obtained. A defence lawyer well known for fighting prostitution-related charges (the lawyer acting in *R. v. Hutt*) began challenging the law on the basis that it was unconstitutional, that a car was not a public place, and that only communication for the purpose of prostitution entailing a tangible nuisance should be criminalized.

-- At about the same time, judges began following two local rulings that s.195.1 was unconstitutional (3 March, 10 April). The case was hurried to Appeal Court, and the decision over-ruled (7 May; for details see Section IV D 1). S.195.1 enforcement was suspended for some two weeks prior to the Appeal Court decision. Other judges ruled that non-aggressive communication was not an offence. Another judge ruled that engine revving was not communication for the purpose of prostitution. In May some judges began imposing area restrictions as bail and probation requirements.

-- During the first weeks that the law was in place, the number of prostitutes on city streets appeared to diminish; this did not last long, however, and by February newspapers were reporting that prostitutes were again working, saying they had to make a living somehow. By May, activists in Mount Pleasant were once again complaining about the street trade in the neighborhood, and in June began picketing prostitutes. Again anti street prostitution lobby groups requested the application of a nuisance injunction, following the strategy of 1984 in the West End, to move prostitutes out of Mount Pleasant.

-- Residents of an apartment block on Helmcken in the Richards-Seymour stroll area complained of nuisances created by street prostitutes and their customers. In August street barriers were erected each night to prevent traffic movement in the lanes around the apartment building. Prostitutes argued that barriers were not necessary since they would voluntarily stay away from the area.

-- AIDS continued to be an issue in prostitution news. A prostitute in Ontario known to have the virus was tracked by the police and media, but at this time no prostitute in Vancouver was known to have tested HIV positive.

-- A probe was set up to review the police practice of video taping private sexual activity in gathering evidence in the Top Hat escort agency prosecution. Articles about the case appeared throughout the year. An inquiry was also set up to investigate the conduct of the defence lawyer in the case.

-- A prostitute was found murdered in Surrey, and another in Mount Pleasant. The murders provoked a series of articles about other murders or attempted murders of prostitutes. Rape Relief and a prostitute spokeswoman blamed the attacks on s.195.1, saying that it isolated prostitutes; area restrictions, they argued, further isolated women and made them prey to attackers. The case of a prostitute found murdered in 1985 had still not been solved (they remain unsolved at the time of writing). Two female corpses found on Mount Seymour were, at first, thought to be prostitutes. The victims turned out to be strip dancers, another type of sex worker. A number of attacks on prostitutes and convictions of attackers were reported throughout the year. The news also covered the unsolved serial killings of prostitutes in the U.S.

-- The American "Mayflower Madam" and British Jeffrey Archer cases frequently resurfaced in the news.

-- Activists in Mount Pleasant began agitating for a stronger street prostitution law, saying that the judiciary was defeating the potential effectiveness of the revised version of s.195.1 by giving "minimal" sentences.

-- Prostitutes began to move into the residential area of Strathcona adjacent to the traditional stroll on the edge of Chinatown. Some commentators claimed that prostitutes were moving into the area as a result of area restrictions barring them from the vicinity of the traditional stroll (a claim that is not supported by our data, although area restrictions are responsible for the expansion of prostitution strolls in other areas -- see Section V A 3b).

-- In February, a liberal M.P. was reported as saying that now s.195.1 was clearing the streets, it was time to turn attention to escort service operators who were described as being nothing more than "pimps."

d) 1987 Highlights

-- Newspapers continued to highlight any case in which a judicial decision threatened the integrity of s.195.1 and highlighted any disparaging comments made by judges about the law (even though the vast majority of cases passed through court without any hindrance). The decisions in Head, Pithart and Smith (see Section IV D) were all duly reported. Police were reported as admitting that customers and prostitutes were treated differently when it came to releasing or detaining them after charges had been laid; prostitutes were much more likely to be detained (see also Appendix 3, Tables 18a, 18b and 18c).

-- AIDS by now had become a major issue in newscoverage of prostitution. Throughout the year various articles tracked the number of prostitutes testing HIV positive in Vancouver. Various proposals to deal with the AIDS risks associated with prostitution were discussed. "Prostitutes and Other Women for Equal Rights" (POWER) began giving out condoms, donated by the manufacturer, to prostitutes on the street. During the course of the year five prostitutes were reported as having tested HIV positive. Some commentators argued that the low numbers vindicated prostitutes, but a spokesman for the Ministry of Health said that the real number was probably higher, and an AIDS Vancouver spokesman reiterated the contention that prostitutes were a high risk group, and that their use of condoms might create an air of complacency. A quarantine law was proposed by the Provincial Ministry of Health which provoked a considerable amount of controversy over the anonymity of AIDS tests, and whether tests should be compulsory in certain instances.

-- The review of the use of video tapes made during the investigation of the Top Hat escort service continued; the police action in this respect was found to be improper. The conduct of the defence lawyer (particularly by implicating two Cabinet Ministers who had not actually committed any crime by patronizing an escort service) was reviewed. He was subsequently suspended for six months. The on-going reviews served to keep escort services in the news. North Vancouver Council decided not to issue any further licenses to escort services.

-- Three more prostitutes were murdered. They were all found in suburban areas. A prostitute spokeswoman claimed that because of area restrictions the law was isolating women and making street prostitution more dangerous. Other prostitutes were reported as having disappeared.

-- A number of charges for assaults and sexual assaults of prostitutes were widely reported, some of which resulted in convictions. An American sailor was returned from the United States to face charges of assault against a hooker in the most notorious case. A prostitute was also convicted of a murder (the killing of a man described as a heroin trafficker).

-- In the summer of 1987, both the Police Chief and Mount Pleasant activists were once again reported as arguing that s.195.1 had failed because sentences, by virtue of their "lenience," had no deterrent effect. The "failure" of s.195.1 according to these accounts was rested firmly on the shoulders of the judiciary. Defence attorneys criticisms of s.195.1 were also widely reported.

-- The trial and conviction of a well-known millionaire-entrepreneur for indecency with a prostitute in a parked limousine in Stanley Park attracted considerable media attention.

e) 1988 Highlights (Up to May)

-- AIDS again figured prominently in news articles mentioning prostitution. Articles discussed the prevalence of AIDS in the general population and fears precipitated by the disease, and speculated about the number of prostitutes with the virus. One court case involved a young male prostitute who was given a mandatory AIDS test as a probation order resulting from an s.195.1 charge, a decision which met with mixed reactions. Some commentators felt that few sex trade workers had been exposed to the AIDS virus; others pointed out that gays are a high risk group.

-- A number of assaults and sexual assaults of prostitutes were reported; some of these resulted in convictions. In the most notorious case, an American sailor was extradited to Victoria to stand trial, but was acquitted. In another widely reported case a police constable was convicted for extorting sex from a youth prostitute.

-- A prostitute was found murdered in North Vancouver. She was reported as being the eighth prostitute murdered in the Lower Mainland since March 1985.

-- The Chief of Police announced that the names and sentences of persons convicted under the law would be posted every week, so that the public could decide for themselves whether sentences were too lenient. This statement provoked a rash of criticisms by journalists, lawyers, civil libertarians and judges; arguments revolved around issues of privacy and civil liberties, the possibility of mistaken or confused identities (how many people are named John Smith in the lower mainland?) or families being hurt or humiliated by the publicity associated with this particular crime when it is not routine practice with much more serious offenders. Such treatment of street prostitutes and tricks, but not other types of summary conviction offenders, was thought by critics to be biased and unfair.

-- The Police Chief was reported as claiming that the sentences awarded to s.195.1 offenders were too lenient. His comments provoked a considerable amount of controversy over the respective roles of the police and the judiciary in the Criminal Justice system. Some critics argued that the Chief had overstepped his mandate in trying to create law instead of merely enforcing it, and condemned his criticism of the judiciary as inappropriate. Anti street prostitution activists stood firmly behind the Police Chief.

-- The Police Chief suggested that escort agencies should be required to give police access to lists of customers' and employees' names, that the agency fees be raised considerably, that they be operated out of an office, and that they be required to keep track of where escorts were sent. One agency owner claimed that such regulations would put agencies out of business because of the need for such enterprises to maintain the anonymity of both customers and employees. He claimed that his agency was not a front for prostitution. The Police Chief's proposal was later restricted to requesting City Council to raise licensing fees. The Council finally decided that escort services would be required to make available a list of employees names to the police (an action which is now being contested through a Charter challenge). Escort agency operators claimed that the provision of lists of names would damage the business because most clients and workers wish to remain anonymous. Many commentators argued that the attack on escort services was hypocritical at a time when so much effort was being made to get prostitutes *off* the streets.

-- A mother kidnapped her young prostitute daughter off the street and tied her to a bed for three days. The R.C.M.P. released her, and she disappeared with a man who was described by the mother as her daughter's pimp/boyfriend. The case became a cause celebre, and was covered internationally. The mother was in the news repeatedly for several weeks. She was shown harassing prostitutes on the streets and talking to the Premier, who said the issue of juvenile prostitution could no longer be ignored. The case prompted a rash of articles about pimps and continued to be a major news item until the middle of April, 1988.

-- Jimmy Swaggart's involvement with a prostitute was a major news item for the first four months of the year (these articles are not included in the descriptions of news articles provided in Appendix 6).

2. A Summary of Reported Comments on the Philosophy and Perceived Impact of Bill C-49

Tables 194 to 197 describe three general types of commentary on s.195.1. Table 194 reviews the various sources of opinion. Table 195 describes commentators who, in one way or another, feel that Bill C-49 had "worked" to the extent that they anticipated that it would, or that it had brought street prostitution under control. An examination of abstracts of articles (Appendix 6) indicates that most of this commentary occurred during the first four months of s.195.1 enforcement, and emanated mainly from police and Crown spokespersons, local politicians, judges (affirming that the new law, unlike its predecessor, would be upheld in the courts) and members of anti street prostitution lobby groups. After the gradual return of street prostitution to pre Bill C-49 levels, these same groups (with the exception of judges) concluded that s.195.1 could not work because the sentences being handed down were too "lenient." Table 196 reviews these and other sources and types of commentary suggesting that the law had "failed." Table 197 reviews the criticisms of s.195.1 made by various commentators. The criticisms came mainly from three sources: prostitutes' spokespersons and women's groups; defence attorneys (approximately 80% of the comments were made by one lawyer locally renowned for defending prostitutes); and Provincial Court judges. Judges comments appear frequently as a result of journalists' descriptions of judicial statements during trials or when passing sentence.

While the data presented in these Tables are not able to describe the tone in which the statements of various commentators are reported, they do indicate that a broad spectrum of commentary, both for and against the revised version of s.195.1, has been reported. After the summer of 1986, while there has been a great deal of disagreement about what ought to be done about street prostitution, virtually no-one has concluded that s.195.1 should be left in its present form.

Overall, then, commentators in the press have concluded that s.195.1 has failed to control street prostitution. They disagree over why they think it has failed, with supporters of a more punitive approach concluding that lenient sentences have emasculated s.195.1. In the pages that follow, we present an alternative perspective on the problems besetting Canadian prostitution law.

VI. WHAT IS TO BE DONE?
TWO VIEWS ON ADULT PROSTITUTION LAW REFORM

Generally there are two poles of opinion about what should be done about Canadian prostitution law. The groups which lobbied for Bill C-49 are now calling for harsher sentences and the consolidation of the criminal status of prostitution. In opposition are a variety of perspectives which share (at least) two common threads when it comes to the issue of street prostitution and what to do about it -- street prostitution will not disappear from residential districts until there is somewhere else for it to go and, in a more general sense, street prostitution will probably not begin to abate until bawdy house and procuring laws are modified. Some advocates of this position recommend that prostitution be "decriminalized," others that it be "legalized."[1] Our main concern here is with choice between a) making s.195.1 an indictable or hybrid offence and b) overhauling the whole structure of prostitution law so that prostitution is legal in practice, not just on paper.

1. Consolidating the Criminalization of Prostitution: Police Administration Perspectives on the "Failure" of Bill C-49

As we have already seen from the section on prostitution news reporting, the Vancouver Police Department administration in the person of the Chief Constable has been particularly vocal about its dissatisfaction with the performance of the communicating law. A Vice Intelligence Unit Report (January 1988) summarized the impact of s.195.1 in the following way:

> In Vancouver, the commencement of (s.195.1) enforcement in January 1986 had an effect on street prostitution. The numbers of visible prostitutes dropped during the first few months of 1986, and prostitutes charged with soliciting appeared to stay off the street until the charge had been dealt with.
>
> By the summer of 1986 the legislation seemed to have lost its deterrent effect. Male and female prostitutes worked the streets openly in the same numbers as before the legislation. Persons before the courts were frequently arrested for a second or third time. Of 1648 charges laid against prostitutes during the first two years of s. 195.1 enforcement, 810 (49%) were against persons previously charged.

Generally, it is not the focus and wording of the law that is the source of police criticism, but the fact that s.195.1 is a summary conviction offence. Two inter-related problems arise from its summary status.

First, because offenders cannot be fingerprinted, it is difficult to track repeat offences, especially when they occur in different police jurisdictions:

> One of the biggest problems of 195.1 is the fact that it's a summary conviction offence. I recognize that the people committing the offence in their own eyes, and perhaps in the court's eyes, are committing a fairly minor offence, but it is an offence which causes a lot of public concern.
>
> However, the fact that it is a summary conviction offence creates all sorts of problems. First, the people committing the offence do not carry

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[1] Discussions of the difference between decriminalization and legalization are available in the Fraser Committee Report (1985, pp. 515-520); Lowman (1986b); and Shaver (1985).

> identification for obvious reasons. Second, they often do not have a fixed abode. Third, they all use street names, not their real names; they frequently impersonate other people either by using an alias, or by deliberately using stolen I.D., or by using another prostitute's name. Given that 195.1 is a summary offence we cannot fingerprint suspects.
>
> So far we have charged 800 individual prostitutes. The majority of them are white females, aged between 20 and 25. The problem of identifying them and ensuring that innocent people's names aren't used, or ensuring that when a person appears before a court that their record is accurate, is quite a nightmare. The fact that they're not fingerprinted is our biggest problem.
>
> Because they're not officially fingerprinted and photographed we cannot ensure that their identity and the court's records are accurate. We have a situation where it's quite feasible for a person to be convicted for 195.1 in Victoria or Calgary, and then appear in a court in Vancouver or Toronto and be treated like a first time offender. (Vice Squad Administrator, Appendix 1, p. A-14)

The second problem relates entirely to sentencing and involves the belief that s.195.1 will not be a deterrent to street prostitutes until it is made an indictable offence (for similar perspectives, see Court Watch, Appendix 1, p. A-152; and Mount Pleasant Action Group, Appendix 1, p. A-184). Once defined this way it is thought that judges would feel compelled to give more severe sentences.

To be weighed against these deleterious aspects of the new legislation, a Vice Intelligence Unit report did outline several positive aspects of continuing s.195.1 enforcement:

> 1. it clearly demonstrates to the government and the general public the Police Department's commitment to reduce the problems created by street prostitution;
>
> 2. it does provide the means to identify and document the persons engaged in prostitution;
>
> 3. it enables juvenile prostitutes to be identified and removed from the street by charging;
>
> 4. it has a moderating effect on the behavior of persons soliciting as they fear approaching an undercover officer;
>
> 5. it reduces the completed transactions as the prostitute's precautions eliminate many potential customers.[2]

Following on from the general belief that s.195.1 has been emasculated by sentencing practices, the main recommendation of the Police Chief and anti street-prostitution lobby groups has been for a greater power to punish. We review these recommendations, and then examine an alternative set of arguments which call the whole logic of Bill C-49, and these recommendations, into question. In so-doing, we review what appear to be the two main alternatives open to legislators in deciding what to do with a law that has clearly not fulfilled its mandate.

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[2] It could be argued that this is an undesirable effect since it increases the public nuisances created by tricks as they are forced to approach a larger number of women in order to make a purchase.

a) Police and Resident Group Recommendations for Government Action: Beefing Up the Power to Punish

Police and anti street prostitution lobby group recommendations for government action all focus on the present summary conviction status of the street prostitution offence. In a recent document entitled "Street Solicitation: A Review by the Vancouver Police Department" (the basis for a submission made to the Canadian Association of Chiefs of Police) two sets of recommendations are described:

1) That Section 195.1 become an indictable offence. The advantage of this change from the police perspective is that it would "provide the police with the authority to detain (a person) following an arrest and thereafter remove the accused from the street." Also, if the offence were indictable it would give the police the authority to fingerprint and photograph the accused to ensure proper identification of suspects, and provide an accurate record of previous convictions. As to the sentences to be recommended, the review continues:

> Where an accused is convicted under Section 195.1: (a) for a second or subsequent offence; or
> (b) where the evidence indicates that the offence took place adjacent to, or close by, any residential or educational property,
>
> The minimum penalty shall be seven days imprisonment.

2) A less desirable but acceptable alternative, the report continues, would be for 195.1 to become a dual offence. Again the main advantage of this approach is seen as facilitating fingerprinting of the accused and enabling pressure for harsher sentences. The recommend sentencing options in this case would be:

> Where an accused is convicted under 195.1:
>
> (a) Upon indictment, or
>
> (b) For a second or subsequent offence,
>
> The penalty shall be a minimum of seven days imprisonment

This second recommendation is very much like the submission of the Mount Pleasant Police Liaison Committee which includes members of the Mount Pleasant Police Liaison Team, members of local groups involved in lobbying against street prostitution, a resident planner, and several other interested parties. This Committee recommended:

> That s.195.1 be amended to become a dual offence, so that every person who communicates in a public place or any place open to public view;
>
> (a) where that place is near residential or school property, is guilty of an indictable offence and is liable to a mandatory minimum sentence,
>
> (b) where that place is not near residential or school property, is guilty of an offence punishable on summary conviction.
>
> We realize that prostitution involves the victimization of both the community and the prostitute. Hopefully long term steps can be taken to

> address the social cause of this problem. In the interim, however, we believe this proposed modification will mitigate the negative impacts of prostitution on our residential communities. (Letter received from the Committee on 3 December 1987)

For opponents of Bill C-49, the question is whether these kinds of amendments will have the desired effect of suppressing prostitution in residential areas when an altogether different approach to the regulation of prostitution could be adopted, one which seeks to take into account the problems faced by *both* residents *and* prostitutes, rather than seeking to solve the problems of residents *only* as Bill C-49 did, and as these calls for more punitive power also seek to do.

The question is, why would anyone expect street prostitution to start to dissipate until prostitution law is written in such a way that it tells prostitutes where they *can* work? As it stands, the prostitute is legally encircled in such a way that prostitution is legal only if it is not actually practiced.

b) Where Should Prostitutes Work? Sidestepping the Fraser Committee Recommendations.

For its opponents, the main issue with s.195.1 is that it entrenches the illegality of what is ostensibly a legal activity. The Fraser Committee (1985) brought the contradictory nature of Canadian prostitution law to the legislature's attention but the government's response, in the form of Bill C-49, carefully sidesteps the issues raised.[3] It gives no clear mandate to prostitutes where to work. A representative of POWER commented tersely:

> The question is, was Bill C-49 designed to get women off the street or to get women to stop working? If it was to get women off the street but not to get them to stop working, how come the bawdy house laws are still in effect? Where are the women supposed to go? (POWER, Appendix 1, p. A-202)

Similarly a defence lawyer observed:

> If you increase the punishment considerably, you'd force some of the prostitution trade inside. Initially that sounds like what the police and lawmakers want. But the Vancouver police also now want the power to go and investigate escort services. As we read the law, they are entitled to prosecute escort services. So where is prostitution supposed to go? The police believe that organized prostitution carries with it all of the ills that initially caused them to go and investigate places like the Penthouse in the first place. The police want to go after prostitution no matter where it is...
>
> Maybe at the municipal level they can try and run (prostitution) like a business. They let escort services have business licenses in this city, and let's face it, everybody knows what an escort service is. It's not a social club; the perception of the public is that escort services are fronts for prostitution, and that's right. Perhaps if some politicians were courageous enough to

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[3] We thus thoroughly disagree with the assertion in the original "Request for Proposals" circulated by Justice Canada to describe the Bill C-49 evaluation (see p.2 of this report) that the Bill followed a recommendation of the Fraser Committee. The Fraser Committee was absolutely opposed to anything but a wholesale reform of all Canadian prostitution laws.

> design some sort of legislation indicating where prostitutes could work, prostitutes wouldn't be looking over their shoulder all the time worrying that the police might arrest them. If they could work freely, they would do so. Prostitutes don't want to be nuisances in neighbourhoods that they've been driven into by law enforcement efforts and the tactics of the Attorney General. The prostitutes are not given any direction by anyone. And then they're given this ridiculous soft shoe shuffle that it's not illegal to be a prostitute, but it's illegal to communicate with anybody. (Two Defence Attorneys, Appendix 1, pp. A-213-214)

This lack of direction has become particularly acute in the wake of several attempts to curtail escort service prostitution. The conviction of a Victoria escort service owner lingered in the news for three years, serving as a constant reminder of the dubious legal status of such businesses as the conduct of the police involved in the investigation and of the defence lawyer in the trial were both subjected to formal reviews. In 1987 North Vancouver City Council decided not to re-license any escorts, a move that was averted in Vancouver in 1985 by one vote only. In February 1988, the Vancouver Chief Constable was reported as demanding much stricter controls on escort services, including the provision of lists of employees and customers to the police. One can imagine the kind of effect that such regulations would have on a business (and, in turn, the street prostitution trade) where both the buyer and seller of services wish to remain anonymous. After all, it is this anonymity which is one of the main advantages of a trick's meeting prostitutes on the street as opposed to in bars (where they can be seen by other patrons), or through an escort service (where they may have to provide some form of identification).

Given the broad scope of the wording of s.195.1, we asked various respondents if they thought it could be enforced in off-street locations, such as bars, which could be construed as public places to the extent that (under s.195.1) a "public place" is "any place to which the public have access, express or implied." In the case of police respondents,[4] there was mixed opinion as to the applicability of s.195.1 in bars (Policeman #1, Appendix 1, p. A-25; Policeman #2, Appendix 1, p. A-38). Representatives of POWER interpreted the law as covering all places except private premises with curtains drawn:

> So far, as far as we know, it covers just about everywhere.
>
> The only place that I can think is not covered by this law would be your own apartment. So if you got into a vehicle and you did not say a word until you got into your apartment and you made sure you had your curtains closed, you might be OK with 195.1, but then you wouldn't be OK with the bawdy house law.
>
> *So if prostitution was forced off the street this law might be used to force it back onto the street?*
>
> Yes. I don't think there's any way that anybody can work in this particular trade without being at the whim of somebody in power. (POWER, Appendix 1, p. A-205-206)

If these respondents are correct in the potential scope of s.195.1, the power remains latent within it, should prostitution move off the street, to follow it into bars and other locations -- and perhaps force prostitutes back onto the street.

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[4] We were requested to delete this question from interviews with Crown attorneys because it asked them to give their personal opinion about an issue that would have to be left to the courts.

Ironically, by seeking to secure the unilateral right of residents to be protected from the nuisances associated with the street prostitution trade Bill C-49 did very little to alter levels of street prostitution in residential areas in Vancouver. Still anti street prostitution lobby groups are calling for a more punitive approach to the "street prostitution problem." Advocates of a legislative solution which seeks to *mediate the conflicting interests of both prostitutes and residents* argue, in contrast, that only by determining where prostitutes can work will the problems of residents be solved.

2. Alternative Views: Arguments for Legalization and Decriminalization

Much of the resistance to the street prostitution law by feminists, prostitutes' rights organizations, civil libertarians and members of the bar does not issue from any conviction that street prostitution itself is desirable, but from an objection to the potential power of s.195.1 to try to force prostitutes and johns off the street when the practice of off-street prostitution is itself subject to criminal penalty. As far as we can tell from a reading of the various prostitution statutes, the only way that a prostitute can legally turn tricks without risking some kind of bawdy house charge is either by renting a new apartment every other time she turns a trick, or by renting a hotel room that no one else uses for the purpose of prostitution (most bawdy house charges in the past 15 years in Vancouver have involved prostitution in hotel rooms). Off-street prostitution thus requires selective non-enforcement of laws relating to living on the avails, procuring, and bawdy houses for it to be able to function: if prostitutes do move off the street, their ability to work is potentially always subject to criminalization. Consequently, if the purpose of s.195.1 is to get prostitution off the street, it does so by requiring that prostitutes break other laws if they are to continue working. If prostitutes did leave the street there is no guarantee that the next police administration will not take an entirely different approach to prostitution law enforcement (below we describe a series of shifts in prostitution law enforcement policy in Vancouver over the past 100 years, one of which involved an attempt to try and deliberately force prostitution onto the street, and several more which unwittingly had that effect).

There are two main alternatives to criminalization described in the recent Canadian literature on prostitution policy "legalization" and "decriminalization" (for discussion see Fraser Committee, 1985; Lowman, 1986b; Shaver, 1985). Advocates of legalization and decriminalization generally concur that street prostitution will not dissipate to any noticeable extent under the present system of criminal laws. Advocates of legalization usually propose the establishment of brothels or red light districts and the licensing of prostitutes. Advocates of decriminalization reject licensing proposals and the "ghettoization" of prostitutes as another example of exploitation of sex workers, preferring a system where prostitutes could either work in small collectives or independently on a self-employed basis. Critics of decriminalization often misinterpret it as implying that prostitution would not be regulated in any way. Under decriminalization, a variety of regulatory systems would apply as much to prostitution as they do to any other form of commercial enterprise. Street prostitution, for example, would thus be prohibited in the same way that any other commercial street activity is prohibited.

Obviously, advocates of both decriminalization and legalization are united in their belief that where prostitution involves consenting adults engaging in sexual acts which, apart from the remuneration involved, are otherwise legal, it should not be subject to criminal sanction; a person should be free to sell their sexuality if they want to (it is a curious law which makes a legal activity -- promiscuity -- illegal only when it involves payment).

It is important to recognize that persons taking this kind of position do not necessarily agree as to whether prostitution is right or wrong, desirable or undesirable, moral or immoral, but they generally concur that, civil rights issues aside, criminalization can play little useful role in changing the lot of prostitutes (and if it can aid in the suppression of prostitution in residential areas, only at tremendous human and monetary cost).

Critics of criminalization also generally concur that if the object of social policy is the eradication of prostitution (usually on the grounds that it is nothing more than the crass commodification and exploitation of women[5]) only fundamental changes to sexual institutions and economic structures are likely to achieve that effect. Indeed, criminalization, these critics argue, has generally served to exacerbate the exploitation of prostitutes by making them more susceptible to the control of pimps and other third parties to the trade, and more vulnerable to bad tricks. It also serves to ensure the convergence of prostitution with a variety of criminal subcultures -- in the United States, 70% of women imprisoned were convicted for a prostitution offence the first time they were incarcerated (Davis and Faith, 1987).

Also, there is the difficult issue of how to define prostitution in a society where sexuality is so extensively commodified and where power, gender, sexuality and economy are interwoven. Given that this is the case, why select out promiscuous prostitution as the single object of criminal sanctions?

One of the objects of both legalization and decriminalization is to provide the legal context in which it is possible for prostitutes to operate *in such a way that they would not have to work in residential districts*. In the context of this research, we have found very few people, including prostitutes, who argue that street prostitution in residential districts is desirable in and of itself (although from a prostitute's point of view they are probably safer places to work than commercial areas). From almost every point of view prostitutes would fare better in off-street locations. As the founder of POWER noted:

> It would be better if women could work inside. Not only would you be able to work with a partner where it would be safer, it would also be healthier because you wouldn't be standing out there in the rain and the cold. You could also set up appointments with tricks and you'd be able to check them out better than when you can having to jump into a car. So, yes, we would love to see women be able to work inside.
>
> As to the argument that women would become prostitutes in droves because it would be such easy money, I'm sorry, I don't know too many women that would voluntarily give up a good paying job for prostitution. (POWER, Appendix 1, p. A-204)

Similarly, even though they strongly disagreed with the whole logic of Bill C-49 and other prostitution statutes in the Canadian Criminal Code, the two defence lawyers we interviewed agreed that street prostitution probably did have deleterious effects, such as adversely affecting property values in residential areas. But to solve this problem they did not believe that legislators were justified in sacrificing prostitutes to a regime of criminal sanctions in a society where the act of prostitution is legal, especially when there are other ways available to deal with problems associated with street prostitution. As the law stands, nobody seems to be a winner, except the criminal justice system in that it is a recipient of a huge amount of business.

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[5] Other advocates of decriminalization, in opposition to mainstream feminism, argue that "sex work" itself is as valid as any other kind of human labour, and because it does not have to involve exploitation of the worker should not be the object of suppression in the short or long term (for discussion of the tensions in different strands of feminism about the status of sex work see Bell Good Girls/Bad Girls: Sex Trade Workers and Feminists Face to Face).

a) Legalistic Objections to Bill C-49: S.195.1, a Status Offence

One of the principle objections to s.195.1 of the two defence lawyers we interviewed is that there is an important sense in which it is a status offence; the rhetoric underlying it relates to the nuisances commonly associated with street prostitution, but does not require that the acts specified as "nuisances" -- other than the act of communicating for the purpose of buying or selling sexual services -- occur in the commission of the offence. Thus, because the way the term "or" between subsections (b) and (c) of s.195.1 is interpreted by the courts (see Section IV D 3) it defines the criminal action in terms of the status of the communicator rather than in terms of an actual definable nuisance (unless one claims that, in an abstract legal sense, the activity of climbing into a police decoy car and talking about a perfectly legal activity as the car travels down the street is a nuisance). Thus one does not have to stop, or attempt to stop a motor vehicle, impede the free flow of traffic or stop pedestrians (the tangible nuisances defined by the law) to be found guilty of a criminal offence, one simply has to discuss a sex act for payment in a public place or any place open to public view.[6] While acknowledging that street prostitution may well be a nuisance and affect property values etc., the two defence lawyers who we interviewed believed that the act of arranging a perfectly legal transaction in a public place or place open to public view (i.e. a room in a private house which is visible from the street) simply ought not to be the subject of criminal sanctions. They also criticized the enormous scope of the law:

> Presumably the law was enacted to eliminate a public nuisance. But given the way that cases are prosecuted there is no component of nuisance to the activity that is being criminalized...
>
> What I am saying is that I don't think prostitution should be part of the Criminal Code -- it's nuisance that should be criminalized. If a person is a nuisance -- whether they're a prostitute or anybody else -- if they're "pressing and persistent," or whatever the definition of criminal nuisance might be, they should be prosecuted.
>
> By putting the word "prostitute" in the law, it gears it to people who, on the reading of the McLean case, don't have as many rights as other people in Canada. In that sense 195.1 goes against the spirit of the Charter of Rights and Freedoms. I think it should be taken right out of the Criminal Code...
>
> *I hear you saying that 195.1 creates an offence without clearly defining the behavior that constitutes the offence.*
>
> We've argued that from the start. That's what makes 195.1 so objectionable. We argued that 195.1 was an offence without boundaries. The language of the provision is such that you specify actus reus in various

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[6] Hence the Fraser Committee's recommendation for a nuisance law which criminalized the *nuisance* aspect of prostitution rather than the act of offering to buy or sell sex per se (S.C.P.P., 1985, p. 538-543).

> ways. By analogy, if you take the first section, it refers to the act of stopping vehicular traffic. Well, who does that include? Does that include a passenger? Yes. Does it include a driver? Yes. Does it include a person on the street? Yes. What is the actus reus? We think that 195.1 offends the very notion of what constitutes a criminal act.
>
> *So because 195.1 is defined in terms of prostitution rather than an identifiable nuisance it is a status offence?*
>
> Yes, we think so. In that sense it's not much different from Vag. C...
>
> The most disturbing part of this law is its enormous potential scope. Look at the phrase "any place open to public view." A person who is in a West End apartment talking to somebody about prostitution, if they are in public view, commits a crime; if they pull the curtain down, they don't. Some people would object to this argument by saying that the law was not designed to be used in this way. But we have to look at language usage to ascertain what it means. And that's the danger of 195.1 -- there is a great big grey area which it covers. Something is either a crime or it is not a crime depending on how the law is worded. This law is dangerous.
>
> Some judges take exactly this kind of position in rejecting the Smith decision that a moving car is a private place. They reason that even though the car is moving, the defendant is open to public view; therefore, the defendant has committed a crime even if they are judged to be communicating in a private place. (Two Defence Attorneys, Appendix 1, pp. A-214-215)

It should be noted that these comments should not be read as an endorsement of street prostitution, as at least one anti street prostitution activist has suggested,[7] or even as suggesting that street prostitution ought to be tolerated, but that criminal law -- especially when as all-encompassing as s.195.1 in combination with other prostitution statutes -- is not the appropriate way to regulate it, especially since the act of prostitution itself is legal.

Generally, then, it would appear that the legislature is confronted with two main choices (if it is willing to act at all): either a more punitive law or an altogether different system of legislation which actually deals with the issues raised by the Fraser Report (S.C.P.P., 1985).

In the remainder of this Report, we examine the practical logic of these two primary models of prostitution law reform.[8] First, we examine them in terms of their *instrumental* capacity to reduce levels of street prostitution. Then we step outside the immediate context of the enactment and performance of Bill C-49 to examine 100 years of prostitution law enforcement in Vancouver. In particular, we challenge the notion that the spread of street prostitution in Vancouver through the 1970s and early 1980s can be attributed to the "failure" of the first version of s.195.1. Using the insights gained from this analysis, we then re-interpret the performance of the new version of s.195.1 to suggest that calls for a "stronger" law and harsher sentences are misguided, and that a thorough overhaul of all laws relating to prostitution makes much more sense.

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[7] The spokeswoman for Courtwatch, with a thoroughly piebald view of the world, seem to think that anyone who argues against the legal philosophy encapsulated in s.195.1 must therefore be in favour of street prostitution (see generally Appendix 1, pp. A-149-170). This attitude often makes constructive debate about solving problems associated with street prostitution impossible.

[8] The relative merits of decriminalization versus legalization remain largely beyond the purview of this evaluation of s.195.1; for commentary on the Fraser Committee's (S.C.P.P., 1985) recommended synthesis of decriminalization and legalization see Lowman (1986b).

3. Evaluating the Two Models of Street Prostitution Control: Instrumental Considerations

In speculating on the likely effectiveness of a more punitive approach to street prostitution as opposed to some system of legalization or decriminalization, we juxtapose our respondents' comments on the impact of harsher sentences with a series of vignettes describing changes in Vancouver's street prostitution scene which have resulted from efforts to reach compromises with prostitutes about where they should work, rather than demanding that they somehow magically disappear.

a) How Much Would Harsher Sentences Reduce Street Prostitution?

We have already discussed the impact of current sentencing practices on street prostitutes in relation to their customers and found that most of our police and Crown respondents, in the case of all but neophyte or dilettante prostitutes and individual tricks, thought that the sentences currently handed down have very little deterrent impact. But what if sentences were harsher? And if they were to be made more severe, just how much more severe would they have to be to have a noticeable impact on the street prostitution trade?

To begin with, it seems logical to conclude that the more severe penalties get, the greater the number of people that would be deterred by them. Thus when asked whether harsher sentences would deter prostitutes, one defence lawyer retorted:

> That's like asking, "If people had their hands cut off when they're convicted of shoplifting, would there be fewer shoplifters?" Sure, if there were extreme punishment, then there would be fewer people on the street. But what a price to pay. (Defence Attorney Appendix 1, p. A-213)

Also, harsher sentences could influence the prostitution trade to the extent that long prison sentences imposed on street prostitutes would have the effect of physically removing them from the street, but one suspects that the capacity of the Canadian female correctional system would have to be increased anywhere from three to five or more times its present size (depending on how long sentences were to be made) to achieve this goal.

Generally the feeling of Crown and police respondents was that short prison sentences (i.e. in the realm of weeks and months rather than years) have little effect on seasoned prostitutes, but that stiffer penalties would affect women who could either move off the street, or find an alternative livelihood. One Crown Attorney observed:

> I think (harsher punishments) would definitely have more of a deterrent effect. I think any kind of sentence has some kind of deterrent effect. People, if they're going to do something, are more careful about the way they do it. Or they may not do it at all. A lot of these girls just don't think

> they have any options. They're happy to be in jail for a certain period of time. Some of them have criminal records and have been in jail before...
>
> You're dealing with a certain type of woman who often doesn't care. There's one in the system right now; I don't know how many times she's appeared in court in the last few weeks, but she's really young. I think she's only about 19 or so. I did a case against her and she got 7 days. In another one she got 14 days, all within the last couple of weeks. She's in custody now but she doesn't seem to care. (Crown #2, Appendix 1, pp. A-89-90)

A Vice Squad detective offered very much the same kind of logic, although he also thought that more severe punishment might have the perverse effect of making the law more difficult to enforce, and accelerate the migration of prostitutes around Canada in an attempt to confound law enforcement efforts:

> I think (heavier sentences) would have two effects. In the case of some accused, I think it would be a deterrent. They would look at the consequences and say it just isn't worth it.
>
> Conversely, to the prostitutes who have no other way of making a living, and especially the quite large number who have a family to support, they would continue prostituting themselves. I think the main effect that harsher sentences would have would be that prostitutes would start going to extraordinary lengths to make sure that the potential customer was not an undercover officer. Whereas now they often ask the officer to expose himself, or to touch them on the breast, or do something to clearly demonstrate he's not a police officer, under a more severe sentencing system they would become adamant about it. Now we're often able to talk our way around the hooker's demands. Harsher sentences might mean that if the customer didn't expose himself or touch the prostitute on the genitals or on the breast, then the prostitute wouldn't go ahead with the conversation. Harsher sentences might end up making the law less enforceable than it is now.
>
> *Perhaps another effect would be to increase the migration of prostitutes between cities?*
>
> That's right -- indeed, we think that may already be occurring. It's hard to say, but certainly, if someone was before the courts and about to receive a 6 month sentence, one would presume that they would move to Calgary or some other city. And from there they would move to Winnipeg and so on. (Vice Squad Administrator, Appendix 1, p. A-12)

On the issue of harsher sentences a social worker emphasized a somewhat different negative consequence of stronger sanctions by reasoning that imprisonment would simply help to consolidate the "outlaw" status of prostitutes, make the general problems they face more intractable, and make our general response as a society to female prostitution almost entirely punitive in nature:

> Harsher sentences? I guess it's reasonable to assume that the results would be the same as what we've seen in the States. In the States the main reason that women are first incarcerated is for prostitution. That often leads them into more serious criminal activity. That amplification of criminality accompanies criminalization and it would be exacerbated by harsher sentences.
>
> The women who are working out there already have a difficult enough time getting employment. Add to the problems they already experience a lengthy criminal record, and their chances of getting straight jobs will be

> even more remote. The other thing that criminalization does -- and which would be accentuated by harsher sentences -- is that it makes the wedge between the people who care about working people and the working people even greater. Criminalization encourages them to distrust us because it creates an "us and them" mentality. We (social workers) are on the "other side" because we represent society and society has now labelled them as "outlaws." (Street Worker #2, Appendix 1, p. A-122)

And even if greater power to impose punishment were invested in the courts, a member of the Vice Squad thought that, in an indirect way, any deterrent effect might be mitigated by the effect that it had on the influx of women into the business as a diminishing supply forced up the price of prostitutes:

> (I)f there were year or two year jail sentences given out the girls would start looking at different alternatives... I think if there were heavier sentences there'd be fewer people involved in the game. Right now, it's wide open. The strolls are saturated with prostitutes. There's only so many dollars that johns are prepared to spend. If there were heavier fines and all of that, you'd still have the same amount of dollars, but fewer people sharing it. So prices may go up. There would be an added incentive to get into prostitution.

The mention here of one and two year sentences (according to Criminal Code section 722 the current maximum for summary convictions is six months) raises the most important question of all in relation to the issue of deterrent sentencing: how harsh is harsh enough? Just how stringent a penalty are we as a society prepared to impose on persons arranging an act which is technically legal, simply because the arrangement is made in a public place? How strong a penalty does the act of getting into a police car and arranging a perfectly legal transaction in a one or two minute conversation warrant? One Crown attorney, who was well aware of the problems street prostitution causes in residential neighborhoods, nevertheless thought that short terms of imprisonment had virtually no positive results for either prostitutes or the people bothered by their activity, and that longer terms of incarceration for this kind of offence would generally be unconscionable:

> I don't think that putting a prostitute in jail for 14 days is going to achieve much... It's like putting an impaired driver in jail for 14 days. It's not really what this whole thing is about.
>
> *What if the sentence was 6 months? Certain lobby groups seem to think the law has failed because of light sentences.*
>
> I think that's ridiculous. I think that kind of time is way too long for the type of offence we're talking about. Yes, it would have deterrent effect. But it's much too harsh a punishment...
>
> Let's face it, most prostitutes are there because of various economic realities, not because they have some great sexual desire, and not because they want to bother residents. The economic reality of prostitution is that it feeds women and their children, or in some cases supports a drug habit, or all of these reasons. That's the reality of prostitution.
>
> If you make it not worth the price to be the prostitute, you've got a chance of dissuading at least street solicitation. But putting prostitutes in jail for six months isn't the answer. You may get to the stage with a chronic offender where there is nothing else that you can do. But from a practical perspective I'm not looking to put anybody in jail. I don't think harsher

> penalties are the answer. (Administrative Crown Attorney, Appendix 1, p. A-75)

At this point it would seem pertinent to speculate on the kinds of sentences that would be handed down by judges if the legislature were to follow the recommendation of the Vancouver Police Department that s.195.1 be made an indictable offence, and that a minimum penalty of seven days be imposed for a second offence or any offence committed in a residential neighborhood. One effect of this change would be to ensure that, through fingerprinting, punishment of repeat offenders would become more certain. *But police statistics indicate that, as it is prostitutes are getting fourteen day sentences in Vancouver on their third conviction* (Table 60, Appendix 3). Presumably if the offence were to be made indictable, judges would feel obliged to sentence in a different way than they do at present. *How much differently we can only speculate, but it is doubtful that the prison sentences imposed, if they were still in the week and month range, would be sufficiently different from those that are already imposed to have much of an impact on the overall level of street prostitution.* The change of s.195.1 to a hybrid offence, and the distinction of residential areas might have a geographic impact on street prostitution, and provide a different vehicle for suppressing prostitution in areas like Mount Pleasant. But it would probably be much less effective in Strathcona where, if our street worker contacts in the area are correct, Asian gangs drove prostitutes from the commercial area which they traditionally occupied, and where the use of injectable and physically harmful prescription drugs (principally a mixture of Talwin and Ritalin) is widespread.

Once again, if s.195.1 were to be modified without altering any of the other statutes related to prostitution, no clear message will have been given to prostitutes about where they should go to meet tricks. This fact would not be lost upon the judges charged with sentencing offenders. Indeed, from comments reported in newspaper articles, it may well be this kind of factor that has much to do with the degree of severity of sentences now awarded and, indeed, in the thinking of a legislature which made s.195.1 a summary rather than an indictable offence in the first place.

While the sentencing practices of the judiciary have taken much of the blame in Vancouver for the minimal impact of s.195.1 on the street prostitution trade, critics rarely give much consideration to the kinds of factors influencing sentencing decisions. Although we are unable to comment authoritatively on the principles guiding judges' decisions about sentencing s.195.1 offenders -- we have no information apart from what we read in Vancouver newspapers and hear while attending court -- the comments of one Crown attorney are illuminating in this respect:

> I don't really think that the judges are badly motivated in what I consider to be a very lukewarm response to the whole problem (of street prostitution). I don't think it's because they think the problem doesn't matter. One thing that you have to remember about Main Street is that we deal with such a huge volume of cases, including a lot of serious criminal cases, we're under a great deal of pressure to prosecute a lot of cases in a short period of time. 195.1 tends to pale in comparison to much of what comes to court.
>
> I think judges think 195.1 is an important offence. I think they feel street prostitution is a problem, but whether this is the way of solving it, I don't know. A lot of them feel that the legislation isn't very effective and they make that quite well known to us. But I don't think they are badly

> motivated. It's not because they don't care about the problem or think that there isn't a problem and that it's OK to have street prostitution.
>
> Our sentencing options aren't particularly effective. With prostitutes, we're often dealing with very tragic situations; it's just not that simple. There are many other variables. The judges are trying to respond to the complexity of the situation and I can tell you, if it was a theft under case, and the defendants came with some of the horror stories of their lives that prostitutes tell, judges would be just as lenient in their sentencing of those other offenders.
>
> I think judges have also responded a bit negatively to the Crown hounding them about communicating cases and not about other types of offence. We've all of a sudden become extremely concerned with this social problem, but there are many social problems out there -- why are we focusing on this one? Why not residential break and enters? That is a horrendous problem also. People feel raped when they have their house broken into. There are many serious problems. I think the judges resist attempts to make them focus on just this one problem. They're reacting to the Crown for pushing and pushing on these cases; it's a lot more complex a situation. I think it might look like the judges are either responding inappropriately or have decided that it's an insignificant offence; I don't think that that's the case.
>
> They're trying to work out their responses. They're responding to us, they're responding to public pressure, they're responding to peer group pressure. They keep getting caught in legal arguments, from one judge to another, and then everybody gets overruled and we're all over the place all the time.
>
> I think that we're well motivated, but here we are prosecuting communicating cases, pounding the table for incarceration. And then we get somebody with a long history of offences and he's been charged with breaking and entering, and we're willing to accept probation.
>
> You have to try to deal with every situation as it is and there's a myriad of factors that are involved, and try to take a position that's fair to everyone. It's made more difficult by being given fairly rigid guidelines, but, by the same token, we know that those guidelines are motivated by an attempt to deal with a difficult problem; and so we are complying with those guidelines. But we often get egg on our face.
>
> I don't think it's an easy situation for anyone. Defence counsels are offended by the fact that we can even prosecute the cases, and so then we get the heat from them. They insist the cases go to trial in an overt attempt to clog the courts and make us pay for our policy.
>
> I think that everybody out there is motivated to do the "good" thing but we're all cracking our heads over trying to work out just what that might be, and not doing a particularly effective job in the process. (Crown Counsel #3, Appendix 1, pp. A-99-100)

Arguing from an entirely different perspective, a defence attorney also questioned the general wisdom of a more punitive approach to street prostitution. He suggested that if s.195.1 were to become a "hybrid" offence under its present wording (which says nothing about the type of area, residential or otherwise, where prostitution occurs), some interesting debate would arise over the issue of when the Crown was justified in proceeding by indictment rather than summarily, and the unintended consequence of the change might be more complicated court proceedings:

> What you've then got is a police force that is investigating and prosecuting a great many 195.1 offences. But it has had essentially no effect on the numbers of people on the street. So the next question is, "Well if you make it a hybrid offence, if you go with the Police Chief's view that if the sentences are stiffer then you're not going to have all these people on the street." Perhaps that could be achieved if penalties were made more severe. But that wouldn't mean that the problem would go away. You'd just have a different problem.
>
> Bring back harsher punishments and you'll also probably get more acquittals. Courts would be more reluctant to sentence more heavily a person who had simply talked about sex.
>
> Then there is the whole issue of when to proceed by indictment. Are the people who stop a motor vehicle and start screaming and then go on and talk about prostitution to be the ones considered as the most serious offenders? The wording of the law does draw these distinctions, after all. Surely the nuisance behavior is more serious than when a police officer approaches a person who subsequently -- after the officer repeatedly asks, "How much for a blowjob?" -- mentions sex for money. If that's the offence, it's really a minor infringement compared to the first type of offence. The law mentions nothing about the type of area -- residential or commercial -- that the person communicates in. And just imagine the problems entailed in trying to write such definitions into law...
>
> One has to ask what the public's perception and respect for the administration of justice would be if a trained police officer inveigles a woman on the street by pretending to be a deaf mute (a strategy that they have used), or something like that, and, after persistently talking to her for quite some time, he finally gets her to offer herself for sex with him. What perception will the public have of the fairness of the system if that's going to be indictable offence and people jailed for it?
>
> *We often hear that prostitution destroys neighbourhoods and reduces property values. A real estate agent recently told me that people don't want to move into areas where prostitutes work.*
>
> I'm sure that's correct.
>
> *The resident who is outraged by this activity outside his/her door is going to say none of these legal issues matter, prostitutes should be removed from the street because they are ruining neighbourhoods. What do you say to that person?*
>
> A person in the same neighbourhood may say that people from another country or certain ethnic groups also lower property values. Should we criminalize people just because we don't like the sight of them? Let's face it, that's what 195.1 does. And so who's next?
>
> I think that just the sight of people prostituting themselves offends certain people. But should we criminalize a person for this reason? And should we demand just one response to prostitution as members of the anti street prostitution lobby groups have done? (Two Defence Attorneys, Appendix 1, pp. A-217-218)

Ultimately, from a purely utilitarian perspective, the question is would harsher sentences of the kinds currently being proposed (the Chief Constable's recommendation is a minimum seven day sentence for any offence committed in a residential area, or any second offence no matter where it was committed) actually work? With this question in mind, we asked street prostitutes if they would quit working the street if a six month prison term -- a sentence far more severe than those proposed by Vancouver's Chief Constable -- accompanied conviction for a first offence. While 9 respondents said that such provisions would force them to relocate, 13 said that they would continue working the street as long as tricks expected to find them there.[9] Five others were unsure.[10] If these answers are anything to go by, the sentences being recommended by advocates of a more punitive approach to street prostitution would not make much of a dent in the street trade.

b) Making S.195.1 an Indictable Offence: Implications for the Sentencing of Youths

The area of sentencing that would potentially be affected most by the change of s.195.1 to an indictable or hybrid offence would be in Youth Court. As it stands, youths cannot be sentenced to "secure custody" for an s.195.1 infraction because it is a summary offence (the Young Offenders Act provides for a range of sentences up to and including "open custody" for a summary conviction, but not secure custody). The change might, therefore, result in more custodial sentences for youths.

While some social workers thought that legal interventions can have positive effects on those youths least entrenched in street culture by providing external constraints on them, and most social workers would probably like to see authorities vested with the power to incarcerate certain youths when they are in imminent danger of self-destruction, they were generally sceptical of the capacity of harsher (i.e. custodial) sentences to deter most youths from engaging in street prostitution. Generally, the impression that social workers conveyed is that successful intervention usually occurs at a stage where incarceration is not warranted and would be counter-productive (e.g. before the youth in question is fully entrenched in street life). Thus one Outreach worker noted:

> (More stringent sentences) wouldn't really have a lot of impact on (youths). One has to remember that these kids are self destructive; they're victims, they're unaware of legal processes, they're unaware of the consequences of health risks -- social diseases, and AIDS; they're unaware of the risk of being beaten up or raped. We try to give the kids information, power over what they're doing. What they're doing is really impulsive and self destructive; they're in a crisis. It's really difficult for them to have any awareness of the ramifications of what they do. (Outreach Worker #2, Appendix 1. p. 140)

An Emergency Services worker offered a similar perspective:

> What I've learned working with the Downtown East Side project and working at Emergency Services is that a lot of the young people who are wards of the province are running to other cities and other provinces. They're trying to get away, usually from probation conditions that they know that they can't live up to and which are going to see them recycled through the criminal justice system -- first they're on the street, then they're in the Youth Detention Center, then they're back on the street.
>
> It's one thing to talk about putting people in prisons, but what most people don't realize is that most of these kids view foster placements and

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[9] When asked why they work on the street rather than in off-street locations, the main answer was that they can make better money on the street (Table 90).

[10] This question was added after several interviews had been completed.

> group homes as being like prison anyway. This reflects the kid's feeling of injustice when they are removed either from abusive, neglectful family situations where although their parents were at fault, the kid was the one who, by being removed, was punished. The kid loses their family, their home, their community, their pets, and all sorts of other things. Then they're placed in a foreign environment with a group of strangers who are suddenly saying, "We care about you and we want you to stay here." Having experienced this, I doubt that harsher sentences will deter these people, young or old ...
>
> I think we need to be clear about what we're hoping the law will accomplish. I think if we're interested in punishing this kind of behavior, then certainly heavier sentences will accomplish that. But I think that what we're dealing with here is a social problem; I don't think that jail sentences are going to make any dent in the prostitution trade at all. The kids that we see are not going to be deterred by 195.1. (E.S. Worker Appendix 1, pp. A-122, 130)

c) More of the Same?

All in all, then, there appear to be few reasons to think that if s.195.1 were to be made an indictable offence, and the proportion of jail terms in the day and month ranges were to be increased (remembering that third and subsequent offenders in Vancouver already receive these kinds of sentences), that there would be any marked decrease in the overall level of street prostitution in Vancouver. Sentences would have to be much more severe than that to have a marked impact on the trade, and would probably require a massive expansion of the holding capacity of the female correctional system in Canada. The strategy of making sentences dependent on the area that the accused was charged in, might facilitate the intentional displacement of prostitution into commercial areas, although prostitutes would still be liable to criminalization whether working on the street in non-residential areas, or off the street altogether. Even if area-differentiated sentences did enable the displacement of prostitution from residential areas, the nature of this displacement would depend on how a revised law defined a "residential area." In the case of Strathcona, it can be argued that this goal has already been partly achieved without any change in the law (despite on-going s.195.1 enforcement) and without harsher punishments being exacted (a phenomenon we return to below). In fact, prostitutes have moved around Vancouver on a number of occasions without the need for incarceration at all. That they have done so should send a strong message to legislators if their interest is in the instrumental use of law to solve the street prostitution problem.

4. Alternative Strategies: Telling Prostitutes Where They Can Work

We earlier concluded that the only successful strategy since the enactment of Bill C-49 to get prostitutes out of the area where the most vocal complaints about it came from, was the 1987 Mount Pleasant Task Force. *It was successful to the extent that by differential application of police manpower against prostitutes, it was able to displace them to other areas.* But it was able to do so only by the lengthy assignment of a special squad of officers solely to prostitution control. Without continued application of that manpower prostitutes gradually reappeared in Mount Pleasant, and in the summer of 1988, the Task Force had to be reconvened.

In May 1984, through the use of a of a civil nuisance injunction laid by the B.C. Attorney General, prostitution was displaced out of Vancouver's West End virtually overnight. We interpret the "success" of the nuisance injunction not in terms of its deterrent effect on prostitutes, but in the message that it gave them. By telling them specifically where they could not work, they were told by default where they *could* work. Under the leadership of the Alliance for the Safety of Prostitutes (ASP) the prostitutes acted in concert, resolving to move from the West End rather than go to litigation (it was reported in the local newspapers that only a handful of charges were laid against a few prostitutes who initially refused to move) . After the injunction boundary was moved from Burrard Street to Granville in July 1984, the prostitutes once again moved.

In October 1985 a similar movement of prostitutes occurred, this time within Mount Pleasant, as road barricades were erected to keep prostitutes out of certain residential streets. Once again, by telling prostitutes specifically where they could not go, they moved to the location where they were told they could operate. Admittedly, it would have been difficult for them to work within the barricaded zone because of the number of police and residents on the streets bent on keeping the prostitutes out of the area, but what is noteworthy about the prostitute reaction to this strategy is that they moved to the area where they were requested to go, not to some other residential area in Mount Pleasant. As it was they had already moved at the behest of the police from the area along Broadway east of Main Street (Map 12b shows the location of Mount Pleasant prostitutes in June 1985; only two were working west of Main at that time) into the area north of Broadway between Main and Cambie which subsequently became the main locus of anti street prostitution activism. Police moved prostitutes to this area because, apart from a few residential streets, it was classed as a "commercial" area. But what this relocation did was move prostitutes to the front doorstep of a resident who was to become one of the most vocal anti street prostitution activists in Mount Pleasant.

Generally, the lesson for legislators from these examples is that if the agents of control tell prostitutes where they can work, they will, in all likelihood, go there. The problem with Bill C-49 is that, because of the way it interacts with other prostitution laws, it does not do this. Similarly, anti street prostitution campaigns both in the West End prior to 1984 and in Mount Pleasant thereafter, were aimed simply at getting prostitutes out of the neighborhood in question, thereby deliberately avoiding the issue of the illegality of indoor prostitution. Through a convenient political balkanization of the city, West End activists were able to secure the nuisance injunction to rid the West End of prostitutes. The political objectives of West End activists did not include the interests of either prostitutes or people living elsewhere in Vancouver. Their political campaign was openly self-serving -- a case of saying, "anywhere but here." Thus one result of their campaign was the movement of prostitutes to another residential area.

The effect of the Mount Pleasant Prostitution Task Force has again been to displace prostitution, not to suppress it, and again part of this displacement has been to another residential area (although this time one which has had a long history of dealing with prostitution). The different reaction of this neighborhood in terms of the way local residents have responded to the street prostitution problem is worth some comment for it is a microcosm of the problem that a city like Vancouver currently faces.

5. Prostitution in Strathcona

Our review of the history of prostitution law enforcement in Vancouver presented in Section 5 (below) indicates that prostitution has flourished in Strathcona since the first development of the area in the late nineteenth century. It has always been home to some of the poorest people in the city. In the post war period, the streets immediately east of Chinatown (area 4, Maps 3 to 7) have served as one of the main street prostitution strolls in Vancouver. As we noted earlier, in 1986 prostitutes began working the residential streets east of the traditional, mostly commercial land use area, and complaints from residents began to flow.[11] At various times, local community groups met to discuss problems associated with street prostitution, and devised various tactics for dealing with them. A police liaison team and local street workers participated in some of the discussions. To date, the response to prostitution in Strathcona has been somewhat different from the response in Mount Pleasant and the West End. The outcome of these meetings was an attempt to negotiate with prostitutes where they should work by drafting and circulating a map of "no-go areas" for prostitutes (Map 26, Appendix 5). The map requested that women work along Hastings Street, and in the area that they had previously worked adjacent to Chinatown. No-go areas included the residential streets and the area around the residential school. A local street worker described the process through which the map materialized:

> The map distributed to prostitutes asking them not to work in certain areas came out of deliberations with ****, one of the local neighborhood services associations. They deal with community issues. Well, one of the main issues this community wants to take on is prostitution, or should I say anti-prostitution issues. In combination with paid staff from Strathcona Community Center, they assumed an anti-hooker stance, and started working with the anti-hooker people from Mount Pleasant.
>
> In dealing with this group we kept on asking them to put their money where their mouth is. You don't want people to work in certain areas, draw us a map. One of the women from the Mount Pleasant group (Court Watch) became extremely hostile; she spat at me at one point.
>
> So a map was produced (here's a copy)[12] but basically the anti-hooker people didn't want it. The police won't condone this map because they can't condone anything. What the map does is mark out the areas that hookers ought not to work. We say to the working people, if you work in these areas that are marked, you'll likely come under certain kinds of scrutiny, either by the community people, (who count the hookers out there) or by the police. That's the kind of unwritten agreement we have with the police -- focus on people who work near the school or around the residential areas.
>
> Basically, we're the only community I've heard of so far that's tried to take some kind of action other than picketing hookers or other types of confrontation. It's been successful. Where this arrangement breaks down, of course, is when people come into the community that don't have this information, or have no reason to respect this information because they have no sense of commitment to this community.
>
> The regular working women cooperate. The working children -- i.e. children that are into consumer sex -- are a problem. They're children, so they're usually loud and noisy and boisterous no matter where they are. If

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[11] One street worker explained that the move reflects pressure from Asian gangs (Street Worker #1, Appendix 1, p. A-110).

[12] See Map 26.

> they were at school they'd be that way, and when they're out in the street they're that way. They're always a concern to us. It's hard to get them to commit themselves to any framework like the one that was proposed in Strathcona. (Street Worker #1, Appendix 1, p. A-110-111)

While some residents objected to this strategy and wanted a full scale police effort equivalent to the Mount Pleasant Task Force, and although s.195.1 enforcement concentrated in Strathcona, it seems that patrol police mainly restricted their attention to women working in the no-go areas. To advocates of the negotiative approach to street prostitution problems, the police response was a welcome change to the exclusionary politics of Mount Pleasant groups:

> I find the police in this area provide us with good quality social service – as good as most social service people provide... Uptown it's different. In Mount Pleasant the police are sent in as broom sweepers. The police are organized into special harassment squads that ticket working people for dropping cigarette butts or for jay walking and shit like that.
>
> I think down here the working women utilize the police more now than they ever have. That's unique in all of Vancouver.
>
> *Why is that?*
>
> Because we've tried to defuse situations and negotiate different ways around problems in a way that encourages cooperation rather than people harassing each other. Confrontational tactics are avoided. We find that we can negotiate with the concerned members of the community. We can come up with workable solutions that the majority of the working population will listen to. And of course, the 10% or 20% that don't want to listen, well they should get their knuckles rapped. (Street Worker #1, Appendix 1, pp. A-111-112)

The impression of the engineers of the map was that most prostitutes could be moved out of residential and school areas without a punitive response, although such a strategy necessarily recognizes the right of the prostitute to work somewhere. For the most part, our counts indicate that prostitutes abided by the guidelines established by the map, although they frequently used the lane immediately adjacent to Hastings Street because of the cover it afforded (they could disappear when patrol cars approached), an area which is technically out of bounds. Only occasionally did we see prostitutes working in the no-go areas, with the exception of some nights when there were comparatively large numbers of women working the street. And, as one of our commentators pointed out, there are always a minority of people in any group who are not going to listen to reason. Ironically, one of the factors allegedly disturbing the success of the agreement was the displacement of prostitutes into Strathcona from other areas:

> *How successful was (the map) in terms of having women co-operate with the request to stay off certain streets?*
>
> Fairly good. What we've had to do though is bring the map to the attention of new people when they move into the community. Some of the older women from the Mount Pleasant area when they moved in here weren't aware that working on certain streets was a problem. But it was also easier to talk to them in terms of their cooperating with the request because they were well aware of the kind of heat that had been brought down on them by vigilante groups in Mount Pleasant.
>
> We tried to point out to people in the area that historically in the Downtown East Side there have always been areas where it has been OK

> for women to work – there was a large measure of social acceptance of prostitution. I think people down here understood that women were out there as a result of economic circumstances, so there wasn't the same sort of labelling and name calling that went on in Mount Pleasant. We would tell the working women that we did not want what happened in Mount Pleasant to happen here. We would remind them that our primary goal is to try and work with some of the younger kids, offer them alternatives to street life and that way we would get information on the kids from the adult women. That's continued to happen.
>
> There are a few women who still pay little attention to the map or to anything that we'll say via word of mouth about their moving out of the residential areas. There are some people who, for whatever reason, are really hostile towards society in general and won't comply with our requests. Three of them who I can think of are heavy prescription drug users. T's and R's. A lot of pills. (Street Worker #2, Appendix 1, p. A-119)

Another street worker observed:

> We all knew the people from other areas would end up here. I think even the people on the street down here knew it. It should be realized that the working women are not out to disrupt anything. They understand why people don't want them working around the school. It wasn't like you had to sit down and do A B C 's to convince them. Of course, they understand that, no problem: "Where would you like us to work?" they'd say.
>
> When we get new people or people who don't belong here, that's when the problems start. Or kids. (Street Worker #1, Appendix 1, p. A-112)

It may well be that the negotiative style advocated by these two street workers will be short lived. An article appeared in the Vancouver Sun on 20 April 1988 entitled "Hookers Reach Truce on Strathcona Front" describing the map and police tactics in the area as an "unofficial agreement." A police spokesman quoted in the article generally confirmed the street workers' impressions that most prostitutes "are extremely receptive" and that it was "mainly the new girls" who were non-compliant.[13] But the publication of this article itself seemed to polarize opinion. The local Community Center Association responsible for producing the map wrote a letter to the editor of the Vancouver Sun (April 29) objecting to the tone of the headline saying, "we have no truce, there is no war." Apparently certain Strathcona residents do not agree: if the emphasis of s.195.1 enforcement is at least partly dictated by the volume of complaints police receive from residential areas, then the substantial proportion of 1987 charges laid in Strathcona indicates a steady flow of complaints to the police.[14] Thus on 18 May 1988 another article appeared in the Sun announcing that there would be "Beefed-up police patrols to tackle Strathcona prostitution problems." The article is a particularly revealing one in that it describes how, in submissions to City Council, residents "painted ... a grisly picture of daily scenes that they are subjected to in Strathcona" but that they nevertheless felt that a more punitive approach to street prostitution would not be effective: "We don't have all the solutions to these problems, but neither do we feel that stiffer penalties provide a solution. The existence of street prostitution stems from a host of socio-economic factors that need to be addressed in some other manner."

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[13] Our police respondent who had been assigned to the Mount Pleasant Prostitution Task Force similarly noted that most prostitutes readily obliged police requests (Policewoman #2, Appendix 1, p. A-57)

[14] One member of a local community organization who we interviewed (this interview was not taped), while agreeing to the Map strategy, noted that it had displaced women east to Hawks street, a residential area not included as a no-go area.

The outcome of the meeting was the Mayor offering support proposals for stronger sanctions against street prostitutes, and announcing that police activity in Strathcona would increase. And all this will happen without giving any clear or consistent message to prostitutes about where they should work and despite their general, if faltering, compliance with the map delineating no-go areas. Once again the demand for stronger sanctions completely ignores the issue of where this legal activity should occur. And that brings us to what we see as the real problem with Canadian prostitution law; it can and has been mobilized against prostitution no matter where it is located.

VII. RE-EVALUATING THE CAUSES OF CHANGING PATTERNS OF PROSTITUTION IN VANCOUVER 1886-1988

The goal of this reconstruction of the history of prostitution and prostitution law enforcement in Vancouver is not to offer an exhaustive account, but to sketch out its main dimensions through a series of vignettes describing prostitution law enforcement since the incorporation of the city in 1886. By placing the evaluation of s.195.1 in a broader historical perspective we show that the main problem with Canadian prostitution law, if its instrumental purpose is to control the public visibility of prostitution (as opposed to criminalizing prostitution itself), is that it is self-defeating.

An examination of the history of prostitution law enforcement in Vancouver indicates that when prostitution becomes too visible, powerful forces conspire to either drive it underground or eradicate it completely. But such an examination also indicates that when prostitution does go underground, equally powerful forces conspire to bring it to public attention for one reason or another, or even to disperse it, and in so-doing to send it on to city streets. The result has been a hundred years of often self-defeating law enforcement efforts made possible by a criminal code that renders the prostitute subject to prosecution no matter where she goes. Once this analysis of law enforcement is coupled with an examination of changing styles of prostitution through the twentieth century, we also realize that *styles and locations of prostitution can change for a variety of reasons some of which are unrelated to police activity*.

These points are of fundamental significance to this evaluation of Bill C-49, for it suggests that *it is the contradictory nature of prostitution law and its enforcement in combination with a variety of extra-legal forces, not the "failure" of the first version of s.195.1, that explains changing patterns of street prostitution in Vancouver since 1975.* Earlier changes in the geography of street prostitution in the late 1960s and early 1970s appear to have had very little to do with law enforcement patterns.

1. Prostitution Prior to the World War 2

There have been two main periods of concern about the prostitution trade in Vancouver since the turn of the century, with a number of minor outbreaks of newsworthy anguish interspersed between them. The first major wave of concern about the trade was prompted by the social purity movement of the period 1903 to 1917 (see generally McLaren, 1986; McLaren, 1987; McLaren and Lowman, forthcoming; Nilsen, 1980; Rotenberg, 1974). While the wider social purity movement -- in large part a sort of Christian liberal feminism -- was driven by desires to protect women from "white slavery" (cf. McLaren, 1987), in Vancouver at the local level there was little sympathy for the "fallen woman;" rather she was thought to be a source of corruption of the young, while brothels were seen as a moral blight on the city, and a threat to property and business interests (Nilsen, 1980, p. 206). Nevertheless, both sets of interests coalesced as the national reform movement succeeded in securing harsher laws against procurers and other exploiters of prostitutes while local interests lobbied for a more consistent application of those laws against pockets of police-tolerated prostitution in certain localities in Vancouver.

What is interesting about this early crusade against prostitution in terms of the evaluation of the current version of s.195.1 is the rhetorics used to justify the censure of prostitution and the actual effects of suppression efforts on the prostitution trade. Like their modern counterparts, these early reformers evinced a considerable measure of confidence in the ability of the law to act as a tool of social engineering; the early local reformers (sometimes in contrast to the arguments of the wider reform movement) seemed to be convinced that law enforcement, by itself, could eradicate prostitution just as more recent groups pressing for harsher laws seemed to believe that the beefing up of the law against street prostitution would, by itself, serve to eradicate the street trade. But the goals of these two law reform movements have been different. In the case of the early anti-vice activists the objective of desired law reform was the eradication of prostitution itself. For the most part -- with the exception of the abolitionist sentiments of the spokeswoman of "Courtwatch" (Appendix 1, pp. A-149-170) -- the Vancouver groups which lobbied for Bill C-49 built their argument around the issue of nuisance and sought primarily to suppress the public manifestations of the trade. They seem to have believed that such an objective could only be attained by more laws rather than less, just as contemporary commentators concerned primarily with the removal of prostitutes from residential areas are now calling for a more punitive version of s.195.1 to achieve this goal.

When it comes to the effects of early twentieth century attempts to suppress brothel prostitution and the campaign against the street prostitution trade after 1976, there are several similarities with contemporary law enforcement efforts, perhaps the most striking of which is geographic. Law enforcement efforst have generally tended to displace prostitution, not suppress it.

The period 1906 to 1912 is one of a rapid escalation of enforcement of a variety of laws against prostitution. It marked a distinct change in a police policy towards the prostitution trade -- which up to that time had been one of open toleration -- and was driven mainly, Nilsen argues (1980, p.208), by interest group pressure. For the first 18 years after its incorporation in 1886 Vancouver, like most Canadian and many American cities, contained a recognized and apparently largely accepted "restricted district" where prostitutes worked out of "brothels" -- houses where anywhere up to ten women might work at any one time. Often the houses doubled as drinking establishments. In 1904 the main red light area was Dupont street (now Pender) in an area on the edge of Chinatown (the location of the Strathcona prostitution stroll after World War 2 up until 1986 when the trade moved east a few blocks). The earliest petition on record to the Vancouver Police Commissioners, according to Nilsen, demanded that something be done about Dupont prostitution because of its effect on the children attending the Strathcona and Central Schools (the no-go area map distributed to Strathcona prostitutes in 1987 applies to the same general area). The main result of the police response to this call for action was a rash of further submissions, particularly from Mount Pleasant residents on the one hand and Chinatown merchants on the other, prompted by the fear that the police department was simply intent on relocating the restricted district. It seems that prostitution was relocated -- to Chinatown in this instance, not Mount Pleasant -- by subsequent law enforcement efforts in a way that led Nilsen to conclude that "although the police may not have directed movement of prostitutes to Shanghai and Canton Streets, they did not prevent it" (1980, p.211). Three crackdowns on prostitutes in the Chinatown area followed, with many arrests made -- in one sweep, 136 women were arrested of whom 110 were convicted; all of them were fined. In 1908, after two rounds of fining offenders, harsher sentences were imposed -- in January of that year seventy one women were arrested, all of whom were given six month prison sentences. It may be of some interest to contemporary commentators demanding harsher penalties for street prostitutes that the crackdown had little effect on levels of prostitution. As Nilsen observes:

> ... after the January crackdown, the Court records shows that brothels were beginning to appear, or at least to be more visible, in an increased variety of locations throughout the city. Arrests show that prostitutes were locating as far west as Granville and as far east as Hawks Street. (1980, p. 211)[1]

At this time, however, only perfunctory action was taken against prostitution on Shore Street, and Nilsen concluded that by 1910, it had become the acknowledged "restricted district" of Vancouver. All that changed in 1911 after the Board of Police Commissioners and the Police Chief were threatened with prosecution for failing to enforce the law. As a result, the "restricted district" was once again relocated, this time to Alexander Street. After 1908 prostitution began to decentralize, as evidenced by the widening zone of police activity which included prosecutions in Mount Pleasant and the West End as well as in the more traditional zone of permissiveness in the Downtown East Side (Strathcona and Chinatown). And as fixed location prostitution more and more became the object of law enforcement, so the more numerous the prosecutions for street walking offences became.

Generally Nilsen's study shows that prostitution at this time was continually resistant to "tough police measures" since fines and jail sentences barely seemed to deter prostitutes, let alone eliminate the trade. Rather, law enforcement efforts decentralized prostitution, and in so-doing, made it more visible, a finding that led Nilsen (1980, p. 215) to conclude that the incidence of prostitution had less to do with the indifference of law enforcers -- as the lobby groups of the time believed -- than it did with women's marginal position in the labour force (the subject of the second part of her essay).

All in all, then, the main result of law enforcement efforts was the displacement rather than the suppression of the prostitution trade.

a) The Vancouver Bawdy House Trade 1920 to 1945

Through the 1920s and 1930s public pressures in Vancouver for police action to suppress the prostitution trade, diminished considerably, according to newspaper reports throughout the period.[2] Street prostitution does not appear to have been widespread, although the brothel prostitution trade was well entrenched. In any event, there are no indications that the citizens in areas where prostitution occurred were being particularly vocal about the issue of prostitution control, especially after the onset of the Depression when attention focussed on other issues. The subject of prostitution did, however, re-surface through the 1920s and 30s in a series of scandals alleging that police officers received payments from gambling operations and brothels (Swan and Richardson 1986, pp. 56-62) and that more than one Mayor had direct links with vice entrepreneurs. The scandals are of interest because in reading discussions of inquiries into police activities, we get an idea of the extensiveness of the brothel trade at that time. Also, archival records indicate that the level of prostitution charges laid during the 1920s far exceeded the number laid during the height of the moral crusades against white slavery ten to fifteen years earlier (Figure 24). Critics of the time sometimes referred to the fines levied as a sort of "sin tax," a way of filling the city's coffers by fining the operators of brothels for their activities, while tacitly condoning them.

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[1] As it happens, the eastern and western boundaries of the recognized prostitution strolls in Vancouver in 1987 are marked by these same two streets.

[2] In an on-going research project we are searching every copy of one of the longest running Vancouver daily newspapers for articles on prostitution. The search is almost complete, although we still have to complete a reliability test by randomly selecting two months each year to check the accuracy of different searchers. The results of the searches already indicate a considerable variation in the amount of attention given to prostitution each year.

b) An Argument for Moving Prostitution Onto the Street

The subject of prostitution was often an integral part of city politics, as several mayoralty candidates erected political platforms around the goal of cleaning vice out of Vancouver. In one of these campaigns a local mayoralty candidate joined forces with Donald H. Williams, Director of the Division of Venereal Disease Control (part of the British Columbia Board of Health) to call for the eradication of the brothel trade. What is particularly interesting about their campaign from the point of view of this evaluation of Bill C-49 is the logic Williams advanced for concerted police action against the fixed location prostitution trade. Williams, in opposition to the brothel trade, thought that prostitutes should be forced onto city streets. *And the provisions contained in the Criminal Code (most of which have changed little since that time[3]) provided the mechanism to do so.*

In an article published in 1941, Williams described the terrible threat that prostitution presented the war effort -- a veritable "fifth column in our midst" (p. 364):

> Commercialized prostitution is the illegal exploitation of venereally diseased young women in bawdy houses...Now the expediency of national defense demands that the "fifth column" of commercialized prostitution cease its insidious undermining of our efficiency through the spreading of venereal disease to 'the young, the brave, the strong' engaged in essential civilian and military war work. (1941, p.365)

The purpose of Williams article was to rally support for renewed efforts against Vancouver's bawdy house prostitution. He suggests that two forces have conspired to entrench bawdy house prostitution in Vancouver -- propaganda put about by bawdy house interests and public misinformation. He attributes the latter of these problems to the former. In particular, "bawdy house interests" had misguided citizens with a series of "red herrings" designed to subvert attention away from the socially problematic aspects of bawdy house prostitution. According to Williams the three principle red herrings were:

> that organized and regulated prostitution protects the community from, first, "spreading the professional prostitutes and their diseases throughout the city," second, "endangering the chastity of decent women and young girls by assault and rape," third, "the need for rehabilitation facilities before turning the prostitutes out on the street." (1941, p. 365)

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[3] Street prostitution offences have undergone several changes and a law criminalizing the customers of youth prostitutes was enacted in 1988.

The purpose of Williams article was to put to rest the beliefs encapsulated in these three red herrings. Of particular interest here is his argument about the "spread propaganda." Essentially Williams argued that the spread of prostitution was desirable to the extent that by eliminating concentrations of prostitutes, "it makes access to the sources of disease more difficult." Once prostitutes are less accessible, Williams argued, the incidence of venereal disease would decline: "Accessibility is the key point" (1941, p.367). Of the "spread" propaganda in particular, Williams noted that brothel owners, to safeguard their interests, made two main "plays" to sidetrack the public:

> These involve utilizing to the fullest extent the nuisance value of the professional prostitute as a follow up to the "spread" propaganda. Immediately there occurs the "play" of professional prostitutes posing as street walkers and suddenly making themselves a very obnoxious nuisance on prominent streets. Along with this the exploiters move some of their diseased products to residential districts and often deliberately near the homes of citizens whose cry of "spread" will be loudest and most effective in veering public opinion back to its tragic attitude of tolerance toward re-establishing the disease dispensaries in their former haunts. The public is not cognizant of the fact that effective law enforcement can force landlords and lessors to keep the madames and their diseased wares trundling from house to house until the profits are gone and the patrons give up their attempt to find the constantly moving madame and her girls. (1941, p. 367)

The purpose of this vignette is simply to demonstrate that a variety of demands for the censure of prostitution find support in and can be used to mobilize prostitution law against the trade no matter where it is located. When prostitutes meet their customers on the street, concerted efforts are made to move them indoors. But when prostitution is off the street, equally concerted efforts can be made to close off-street locations thereby displacing prostitutes back onto the street.

It is not possible for us to ascertain how successful the renewed attempts to close down the brothels were, although Williams claims that they were all closed by February 1939. Similar claims had been made by previous police administrations but up to the Second World War, brothels were the mainstay of the prostitution business in Vancouver. After the Second World War they seem to have disappeared. Police statistics show that many hundreds of bawdy house charges were laid each year in Vancouver through the 1920s and 30s (Figure 24), and then dropped to less than 20 each year between 1952 and 1974 (Figure 25). As far as we can ascertain this change reflects the demise of the brothel, rather than a policy of selective law enforcement, for the following reasons: (1) in 1954, the time of the most recent major police graft scandal in Vancouver, the Chief Constable was accused of taking payoffs from gambling organizations, but prostitution establishments were never mentioned in the course of the highly publicized inquiry.[4] (2) As part of an on-going "oral history" of prostitution in Vancouver we have interviewed a variety of people who answered a newspaper advertisement for information about the prostitution scene in Vancouver prior to 1970. Interviews conducted so far include two ex Vice Squad officers, several women who worked the Strathcona streets in the 1950s and 60s, and a variety of men who frequented 1930s brothels and/or were involved in the bootlegging business at that time. Of those respondents who were able to offer an opinion on the subject, none of them thought that brothels were an important part of Vancouver's prostitution scene in the post war period. (3) We can find no mention of brothel prostitution in the newspapers of the time. In and of itself, this does not mean that brothel prostitution did not occur, only that there is no evidence from this source that it did. We also know that street prostitution occurred throughout the post war period in an area on the edge of Chinatown (Map 3, area 4) without occasioning much interest from the press;[5] indeed, there was generally little mention of prostitution in Vancouver's main daily newspaper in the post war period until the closure of the Penthouse cabaret club in December 1975 after the owners and two employees had been charged with living on the avails of prostitution.

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[4] In pre-war Vancouver, such scandals always involved allegations of police links with prostitution and gambling houses which seemed, along with bootlegging, to be part of an interconnected illicit economy. These connections probably existed after the War, but in altered form. Indeed, prostitution was probably always related to bootlegging and illicit drinking establishments -- first in the form of houses of prostitution which doubled as drinking venues, and later in "bottle clubs" (clubs which served liquor illegally during a regime of stringent liquor control in B.C.) -- until liquor laws were relaxed in the late 60s and early 70s.

While there is very little attention paid to prostitution in the newspapers of the 1950s and 60s, it did occasionally surface in the news, and to the extent that it did, we get an insight into the style of prostitution that was most commonplace at that time. And once again we see that when prostitution is out of public mind and sight, the power remains latent in Canadian prostitution law to be mobilized against it nevertheless. In this case, the object of censure was the "call girl" racket and the criminal network (i.e. the taxi drivers procuring prostitutes for customers) that was said to underlie it.

2. Call Girl Prostitution and Police Fear of Organized Crime: Prostitution in the 1950s.

On 12 January 1959 a Vancouver Sun front page headline exclaimed "Trade Brisk in Call Girls: Sun Reveals Taxis are Key to Sale of Sex."

> A lucrative and wide-open call girl system is flourishing in Vancouver, operating in some of the city's leading hotels and motels, in defiance of token action by police.
>
> Girls can be obtained easily through hotel bell boys, taxi drivers or simply by ringing the dispatchers of certain cab companies.
>
> Some of the girls are employed in ordinary daytime jobs at offices and banks.
>
> They sell their charms at night for the recognized rate of $25 an hour or $100 a night.

A team of 12 Sun reporters was assigned to investigate the prostitution trade in Vancouver's hotels and motels after arrests of several alleged call girls, and the Chief Constable had reported to the Vancouver Police Commission that he "had a 'queasy feeling' (that) a big, organized call girl racket was operating in the city." The twelve reporters certainly supported the notion that the call girl racket was extensive, and found that two out of three taxi drivers they approached would help them to procure a prostitute either by directly contacting them, or contacting other drivers. Some drivers charged a $5.00 surcharge for delivering a prostitute, and several taxi company dispatchers were willing to arrange over the telephone for a woman to be sent to a hotel room. In addition to the taxi industry's apparent complicity in the prostitution trade, bell boys at several leading hotels would procure women on request, and some hotel managements seemed to turn a blind eye to "obvious" prostitution.

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[5] And without any organized campaign to get rid of it. Through this period there was apparently only peremptory enforcement of Vagrancy C, the street prostitution law in effect at that time; one woman we interviewed as part of our oral history project worked in this area as a street prostitute from 1957 to 1972 and was only charged twice under Vagrancy C. She said that an average of ten to fifteen prostitutes worked in the area on any given night.

Here we see the Catch-22 of Canadian prostitution law played out to its contradictory conclusion. The whole point of street prostitution is that it provides a simple mechanism by which tricks can meet prostitutes, and do so anonymously. When prostitutes do not operate on the street, especially in circumstances where there is no single location where tricks pick up prostitutes, the prostitution trade has to be "organized" to some degree -- when prostitutes are not immediately visible to customers, mechanisms develop to bring them together. Generally it seems, the more clandestine the trade becomes, the more the opportunities for third parties to become involved in the process of getting prostitutes and customers together, whether it be by introducing them to each other (bell hops, cab drivers, massage parlor operators, escort service operators), or by providing environments (such as bars or clubs) where they can meet. Given that anyone who aids and abets prostitutes either "procures," "lives on the avails," or is implicated in the running of a "bawdy house," off-street prostitution is almost always illegal. And given that off-street prostitution can usually only function to the extent that it is organized to some degree, it is, by definition, a type of "organized crime."

As we shall see subsequently, these fears have already arisen in relation to escort service prostitution in British Columbia, and a Victoria escort service operator was convicted of several counts of procuring and living on the avails of prostitution in 1985. Although no equivalent Criminal Code prosecutions have occurred in Vancouver, in 1985 the City Council was one vote away from refusing licenses to the escort agencies registered in the city.

The result of the short lived publicity exposing Vancouver's organized call girl racket in 1959 was a small flurry of charges against third parties to the trade. One such charge was laid against the owner of a Vancouver taxi company, but he was subsequently acquitted. In 1975 this same man was charged again -- along with four others -- with procuring and living on the avails of prostitution for his part in the ownership and running of the Penthouse Cabaret club. And more than any other factor, it was this closure, and not the demise of the first version of s.195.1, that was responsible for the major expansion of street prostitution in Vancouver in the 1970s that led to the introduction of Bill C-49 in the first place. But it was not the only element.

3. The Development of Prostitution in Vancouver's West End: Exposing Some Myths

It is not altogether clear why the bawdy house trade in Vancouver disappeared after the Second World War although it seems to have very little to do with law enforcement patterns. One can speculate on a variety of forces impinging on the prostitution trade at that time. The democratization of car ownership may have had something to do with changing styles of prostitution. Changing patterns of travel and commerce may have encouraged the development of alternatives to fixed location prostitution such that the prostitute travelled to the trick rather than the trick to the prostitute. Drug use patterns may have also been related to different styles and locations of prostitution. We have been told by several women who worked in Vancouver during the early 1970s that heroin using prostitutes were not allowed to work in the Penthouse Cabaret, a club reowned at that time as a prostitute hang-out. Heroin users typically worked the Chinatown area. Other street prostitution strolls may have developed to accommodate different types of prostitutes not interested in having to compete with hardened "hypes," or catering to a different type of client. It may be for reasons of this sort that transsexual and transvestite prostitutes (who may also have been discouraged from working in off-street locations) began to work in the West End of Vancouver. Whatever the reasons, we do not know exactly when prostitutes first started working on West End streets, but it appears to have been in the late 1960s.

The first description of prostitution in the West End that we have been able to find is the front page headline of an article appearing in the *Vancouver Sun* in 1972 (10 October) entitled "Worried Davie Street Looks For Cure: Sleazy Elements Rooted in Quality Area." The article, along with supporting evidence from police and other reports on prostitution at the time, lays rest to the idea that the Hutt decision was responsible for the development of prostitution in the West End (a position which then Justice Critic and now Justice Minister Ray Hnatyshyn publicly subscribed to in an address at Simon Fraser University in 1984). As we have seen, other spokesmen (e.g. Winterton, 1980) have claimed that prostitution was confined to a small area in the West end prior to the Hutt decision, only to spread rapidly thereafter. The evidence available, however, would seem to require a rather different interpretation.

In the 1972 front page headline Sun article published just three months after the repeal of Vagrancy C[6] and the introduction of the first version of s.195.1 we are asked to consider the following scenario:

> Suppose it is a Saturday night on Tenth Avenue and in the light of a drugstore a few blocks from the University of B.C. gates a group of prostitutes is waiting for potential customers to happen by.
>
> A young man slows his car ... Before he pulls away one of the young hookers has hopped uninvited into his front seat... Down the street... an expensively dressed pimp from Washington State has stopped a young woman on her way home... Around the corner, a transvestite has strong armed a man who did not know what he was buying... Up the lane, another drag queen is leading a man through the back entrance of an apartment building.
>
> It is incredible to suggest that such activity might take place on Tenth Avenue... But (such things) do happen in Vancouver's densely populated West End, on Davie Street, where hookers work the street corners and lanes ... within sight of thousands of apartment dwellers.

The article describes the main prostitution area as lying between Granville and Broughton along Davie Street (a five block strip) and the adjacent alleyways. The article also mentions a "brainstorming session" by police and City Hall officials trying to devise a cure for "what some people say is a very sick part of the city."

When it came to the reasons for the development of prostitution in the West End, most commentators pointed to planning decisions about land use along Davie

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[6] A vice squad officer noted that a number of charges had been laid under the new "soliciting" law, but that none had yet come to court.

Street, particularly the opening of a bar and what one person described as the general "skidroadization" of the commercial strip, effects hastened by the "beautification" of two of the other locations of Vancouver's night life, Gastown and Granville Street, which allegedly served to displace transients onto the Davie Street strip.

As to how many prostitutes were working in the area at the time, a member of the West End rate-payers association recounted having walked two blocks along Davie near Thurlow and had seen about thirty hookers and had been approached by five (while it is difficult to know how accurate this figure is, by contrast systematic head counts of prostitutes in the West End in 1984 at between 10.00 p.m. and 12.00 p.m., the busiest part of the day, yielded an average of 33; see Lowman, 1984, Ch.8). No police estimates of the number of prostitutes working the area are provided, although one member of the Vice Squad was quoted as saying that between 12 and 20 pimps were "working the street" on any given weekend; it is not exactly clear what the "work" consisted of.

The earliest police estimate of the number of prostitutes working the Davie Street area comes from an interview with a retired officer who worked on the Vice Squad in the late sixties and early seventies; he reported that an average of between six and twelve prostitutes could usually be counted at anyone time over this period. This number is consistent with police estimates of the number of hookers working in Vancouver's main prostitution strolls in 1974 reported by Monique Layton in her study of prostitution sponsored by the B.C. Police Commission (1975, p. 103):

TABLE I.

POLICE ESTIMATE OF NUMBER OF PROSTITUTES WORKING IN VANCOUVER STROLLS AND PENTHOUSE CABARET IN 1975

(SOURCE: LAYTON, 1975)

Granville Street = 15
Davie Street (West End) = 6
East Hastings = 12
Main-Pender-Keefer
  Georgia (Chinatown) = 22

Total 55

Penthouse Cabaret 60-100

It is worth mentioning in passing that according to these figures the number of prostitutes on the street in Vancouver in 1975 was not much different than it is now (according to our counts, the average number of street prostitutes who could be counted between 10.00 and 12.00 at night in 1987 was 52.4). These figures also indicate that the number of women working on the street in the four main areas identified were not as great as the number estimated to be working in the Penthouse Cabaret. It is not hard to imagine what the effect of the closure of such a club and other locations like it would be on the volume of business out on the street. But closed it was...

4. The Penthouse Cabaret Investigation, 1975

The Penthouse Cabaret was locally (and, it seems, internationally) renowned through the 1950s 60s and early 70s as a place to meet prostitutes. It was the subject of several police raids through the 1960s as a location for illegal alcohol consumption at a time when it did not hold a liquor license. In September 1975 the police sponsored a lengthy investigation of the operation of the club (after it had held a license for several years) and the role of the owners and employees in the prostitution trade. There is only speculation as to why the Vancouver Police and Crown decided to investigate the Penthouse at the time that it did (cf. Lowman, 1986, pp.5-6), but that they did once again provides a telling example of the contradictory results of prostitution law enforcement.

It is clear from a number of sources (e.g. Layton, 1975) that most of the women patrons of the Penthouse were working prostitutes, and that many of the men were tricks. As they sat and drank and arranged sexual encounters, they were entertained by strip dancers on the stage at the back of the club. If women left the club with a customer they would have to pay double the $2.95 admission charge to re-enter. In the subsequent prosecution the Crown argued that the women also had to tip the maitre d' and doorman $2.00 each and pay another $2.00 or $3.00 for a table every time they entered the club. In addition, the prosecution presented testimony that the club would provide cash at a 20% interest rate to customers with credit cards who had stated that they wanted the money to pay for the services of a prostitute. Since it was not established that any sex acts ever occurred on the premises of the Penthouse, charges of procuring and living on the avails of prostitution were laid against the three owners of the club, and three employees.

The charges were laid on 22 December 1975. The club was closed on 1 January 1976 when its liquor license was revoked. A second club also rumored to be the subject of a police prostitution investigation at that time was closed after a fire.

The owners of the Penthouse and three of the employees were initially found guilty with heavy penalties imposed.[7] But they were all subsequently acquitted on appeal. With the full benefit of hindsight, the words of Monique Layton in her report on prostitution to the Police Commission (just prior to the police investigation) now appear to have been particularly astute and prophetic:

> The owners of the Penthouse do seem to abide by the law and little can be done to prove otherwise. Any attempt to show that they contribute to procuring (or directly procure) and live off the avails of prostitution through direct cuts on the more expensive transactions are probably doomed to failure... As long as the owners continue to watch their steps and the situation remains under control, the Penthouse provides a rather convenient channel for local activities. (Layton 1975 p, 107)

By the time the Penthouse trial ended in September 1976, the front pages of the Vancouver press were beginning to fill with stories about the street prostitution problem caused by the closure of the club. In 1976 and 1977 the main location of complaints was from Georgia Street hotels, an area not appearing before this time in accounts of street prostitution in Vancouver (See Map 4), and from merchants along Davie Street. It was not until 1981 that resident lobby groups appeared in the West End to protest the prostitution trade. For the first three years following the rapid expansion of street prostitution precipitated by the closing of the Penthouse cabaret, ***complaints about street prostitution came mainly from commercial areas***. The current proposals to distinguish commercial and residential areas in the re-writing of the street prostitution law are time bound. They leave room for exactly the same kind of complaint patterns that already occurred in Vancouver from 1976 to 1980. Indeed, if such recommendations were to be followed, they might even serve as the catalyst for a renewed round of lobbying by commercial interest groups once they realize they are no longer afforded equal protection under the law (this raises the question, how would the differentiation of residential and commercial areas in criminal law withstand a Charter challenge?).

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[7] The two owners were fined $50,000 each plus sixty days in jail, the doorman was fined $7,000 and sixty days in jail, and two remaining employees were fined $1,500 with a token sentence of one day in jail.

5. Re-Evaluating the Impact of the Hutt Decision

In responding to complaints about the "street prostitution problem" that the police action against the Penthouse had actually precipitated, a Task Force was convened, and in the summer of 1977 over 200 s.195.1 charges were laid. Then, in February 1978, came the Hutt decision. The common wisdom is that only then did the street prostitution problem "get out of hand."

The available evidence points to a rather different conclusion. Prostitution was already well established in the West End by 1972, and the major expansion of the trade occurred as a result of the closure of the Penthouse cabaret at the end of 1975, not as a result of the Hutt decision in 1978. This conclusion is given further weight by a report produced in 1977, a year before the Hutt decision was rendered, by the Vancouver police with the revealing title, "Prostitution in the West End of Vancouver." In this report five main areas of prostitution were identified (Map 4, Appendix 5):

1. The 1000-1100 block on Granville Street
2. The Hastings-Columbia area.
3. The Keefer-Gore-East Georgia area
   (Chinatown-Strathcona)
4. The Davie Street Area.
5. The Georgia-Hornby intersection.

By 1977, the two "new"[8] areas of prostitution had eclipsed the other three in terms of the prices commanded, (presumably at first these were the more expensive prostitutes who had worked in off-street locations) and the number of women on the street commanding them. The 1977 police report describes the Granville-Hastings-Keefer areas as the lowest tier in the hierarchy with about 100 active prostitutes (mostly heroin addicts) charging about $30.00 a trick.The West End was described as the intermediate area with about eighty active prostitutes charging between $40.00 and $80.00 a trick. The Georgia-Hornby nightclub area was estimated to contain the most expensive prostitutes with some 200 women charging between

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[8] It seems that only the Georgia-Hornby intersection was "new" as an area of street prostitution, although some informants have claimed that women occasionally worked this street area before 1976. Also the area already contained several hotels and bars where prostitutes worked at the time that the Penthouse was closed.

$50.00 and $100.00.[9] This description of prostitution in Vancouver in 1977 is certainly not indicative of a situation held in check by the first version of s.195.1 even when it was being enforced. Indeed, Figure 26 shows that approximately 1400 s.195.1 charges were laid against prostitutes in Vancouver in 1973 and 1974 (none were laid against tricks) as compared to 1648 laid against prostitutes in 1986 and 1987. If the first version of s.195.1 "worked," how is it possible that so many people were charged? We return to this question below in our discussion of the effectiveness of Vagrancy C.

As to the suggestion that if prostitution already existed in the West End prior to the Hutt decision, it was restricted to one or two streets corners, it seems much more reasonable to conclude that the closure of the Penthouse was one of the main factors responsible for the increase of street prostitution in the area. Also, new types of street prostitute began to appear on Vancouver streets in the 1970s. It seems that transsexuals and transvestites, the first prostitutes to work in the West End, steadily increased in numbers through the late 1960s and 70s. By 1977 they were an important constituent of the West End prostitute population.[10] And young male prostitutes (i.e. males who presented themselves as males) were an altogether new phenomenon in the 1970s. The first area they worked was the West End.

It simply would not make sense to argue that up to 1972 Vagrancy C had anything to do with keeping male prostitution in check since under this law, a prostitute was, by definition, a female. One of the reasons police probably welcomed the repeal of Vag. C was that s.195.1 afforded an opportunity to prosecute male prostitutes (they had tried, unsuccessfully, under Vag C. to prosecute a transvestite). As to male-dressing-as-male street prostitution, it seems to have become noticeable for the first time in Vancouver in the mid 1970s. The reasons for the proliferation of this type of prostitution at this particular time probably have nothing to do with law enforcement patterns or jurisprudence at all.

As to the expansion of street prostitution in the West End following the Hutt decision, the geography of street prostitution did indeed change, but probably not because of the ineffectiveness of the law to contain it. Rather, it seems the expansion of street prostitution in the West End was caused by the displacement of prostitutes from other areas. Thus we see the Vancouver Police report on "Prostitution in the West End of Vancouver" mentioning about 80 prostitutes working in the West End and about 200 working in the Georgia-Hornby area. Since the first wave of protest came from the Georgia street area, it seems likely that police efforts to respond to hoteliers' complaints had the effect of moving many prostitutes working in that area to the West End (but not to Chinatown or Granville Street where prices were lower, and most of the prostitutes were heroin users) in much the same way that the 1987 Task Force moved Mount Pleasant prostitutes to Strathcona and Richards and Seymour; if this reasoning is correct, West End prostitution would have expanded despite the Hutt decision because of the police pressure on Georgia street prostitutes. Then, as levels of prostitution in the West End expanded, merchants along Davie increased pressure for police to deal with it. In 1979, a year after the Hutt decision, the first of two Police Task Forces (the other was in 1981) was convened. In the course of our 1984 research, several prostitutes told us that the reason prostitutes moved off Davie Street itself into the surrounding residential streets was that the police had requested them to do so, reasoning that if prostitutes worked the side streets they would be less open to public view, and there would be fewer complaints from merchants. To the residents of the area, the influx of prostitutes, first from the Penthouse, then from Georgia Street, and finally from Davie Street (the main West End thoroughfare) must have made it seem like the forces of law and order had broken down. When they were subsequently told that the reason for the inundation of West End streets was that the police could no longer enforce the street soliciting law, it must have seemed like a very reasonable explanation indeed.

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[9] A hierarchy that was essentially the same as that which pertained during our 1984 study of prostitution in Vancouver sponsored by the Department of Justice (Lowman, 1984).

[10] Layton, writing in 1975 (p. 128), suggested that most male prostitution (excluding transsexuals and transvestites) at that time occurred mainly in steam baths and a few notorious gay clubs. She mentions that a few males worked along Davie Street in the West End.

In all of this, the contradictory results of prostitution law enforcement efforts were lost as the jurisprudence related to s.195.1 came to dominate the discussion. Even newspaper accounts of "what had gone wrong" generally lost sight of the effects of the Penthouse Cabaret closure on levels of street prostitution in Vancouver and accepted the commonsense notion that street prostitution spread because s.195.1 had "failed."

Similarly, the unintended (or, at least, apparently unintended) effect of the closure of the Penthouse has not been included as part of the official Vancouver Police discourse on why the street prostitution "problem" occurred. In reports on the history of the street prostitution problem prepared by the Chief Constable for city council or for submissions to government as part of police efforts to lobby for more punitive prostitution laws, the Penthouse closure, as far as we know, has never been mentioned. These accounts generally begin with the Hutt decision, and leave the impression that prior to this decision, s.195.1 -- and before it Vagrancy C -- had kept street prostitution contained. We think that an entirely different explanation is appropriate; it is not that the first version of s.195.1 and Vagrancy C "contained" prostitution, but that a balance between street and off-street prostitution prevailed at that time. Several factors upset this balance: (1) there was a real increase in the number of prostitutes working the street in Vancouver as a result of the appearance of more public forms of male prostitution; (2) the number of women actually involved in prostitution may have increased during a period when attitudes about sexuality in general were undergoing important changes; (3) law enforcement efforts directed at the off-street prostitution trade had the effect of both expanding street prostitution, and helping to make it spill beyond the boundaries of the socio-economically disadvantaged neighborhoods where it had been traditionally located.

6. Was Vag. C Successful?

Either explicit or implicit in the statements of anti street prostitution groups and Vancouver Police Chiefs in their campaign for the amendment of Section 195.1 is the claim that the first version of s.195.1 up to 1978 (the year of the Hutt decision) and Vagrancy C before it, did control street prostitution. Typical of this line of reasoning is the following statement about Vagrancy C (175(1)(c)) from a 1979 Vancouver Police Department report on prostitution:

> Police, by the use of (Vag. C), were able to keep the (street prostitution) problem reasonably under control. In Vancouver, uniform members working the areas frequented by prostitutes, were able to present in court, evidence of the girls being common prostitutes or nightwalkers. This was a necessary ingredient in the enforcement of 175(1)(c). Morality squad detectives would charge prostitutes after they had made observations,

> usually of turning a trick, and a prostitute failing to give good account of herself. A negative side of Section 175(1)(c) was that it required evidence against the prostitute, usually entailed observing or at least giving evidence that a sex act took place."

But if Vag. C was successful, why was it successful? It too, just like the first version of s.195.1, *was also a summary conviction offence!* While we do not have statistics on sentences for Vag C. infractions, an ex Vice Squad officer told us that on a first offence a prostitute would get:

> Nothing! A suspended sentence, probation of some kind, or they'd just be told to keep the peace. We couldn't care less really. We were not out to save the world. We were just doing our job which meant enforcing the law to the best of our ability... On a second sentence, she'd get something nominal and may be nothing. Third offence they might get thirty days, or if the judge got out of bed on the wrong side, they might even get three months once in awhile. They'd get a warning or two and a suspended sentence or two and then thirty days.

If this officer's estimate of sentences for Vag C offences is correct, it is difficult to fathom how they would have worked as a deterrent, while current sentences for current s.195.1 offences -- which are almost the same -- do not.[11]

One possibility is that prostitutes were arrested much more frequently under Vag C than they are now under s.195.1, and hence would receive jail terms more quickly. But the woman who worked as a street prostitute in Chinatown during the fifties and sixties we referred to earlier said she was charged only twice under Vag. C in the fifteen years that she worked there. The number of Vag C charges laid during this period (Figure 26) confirm that there were, indeed, few charges laid. At least one of the reasons why so few charges were laid, it would seem, is that Vag. C was not a very easy statute to enforce.

Layton's (1979) article on the ambiguities of Canadian street prostitution law, for example, indicates that Vag. C enforcement was not itself without problems. In this article she describes a section of a Vancouver Police Department training bulletin from 1963 which outlined some of the interpretational problems associated with the enforcement of Vag. C. Layton suggests that the main problem involved establishing what a "common" prostitute was, since the Criminal Code did not provide a definition. A decision in 1949 established the precedent that was followed up to the repeal of Vag. C in 1972: a "common" prostitute, reasoned one judge, was one who was "available to all and sundry (with certain limitations) or at least more than one, in the conduct of her 'old profession'" (Layton, 1979, p. 111). This proviso that a prostitute be "common" meant that police would first have to warn a woman that they believed she was prostituting herself. The practice was for a police officer, once he had observed a woman getting in and out of different men's cars or entering and leaving hotels with a number of different men, to warn her that he believed she was prostituting herself, and that if she was ever charged with Vag. C, the warning would be introduced as evidence at the trial. The details of the warning were forwarded to the morality squad on a "check" card. Of the investigative process, the police manual advised:

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[11] Similarly, we do not have accurate statistics on the sentences awarded for s.195.1 offenders under the first version of that law. Monique Layton did, however, touch on this subject in her 1975 report to the B.C. Police Commission (p. 192). Quoting another study (Beamish, 1975) of sentencing during the first four months of 1974, she noted that of 160 sentences (including repeat offenders) 35% involved jail sentences ranging from 14 days to three months. One can only assume that the majority of jail sentences involved repeat offenders. But the important point is that once again, sentences levied under the first version of s.195.1 at a time when it was supposed to be "effective" were of the same order as sentences for Vag. C. and the second version of s.195.1.

> A charge is laid only against a girl who is a common prostitute or night walker (a) known to have a record; (b) known to have been previously warned re Vag C ... or (c) where her actions are sufficient to show her as a common prostitute. If the girl is unknown to you and your partner, a check can be made of the morality files to see if she has been previously warned or charged. If not, then the above evidence (of an act of prostitution) can now be used not as a charge, but as a perfect Vag C warning. In this case, the procedure is the same except, of course, she is not arrested or charged. Obtaining evidence in these cases takes time and if any attempt is made to hurry the matter or avoid the steps set out above, the charge will likely fail on this account alone. (Layton, 1979, p.111)

Of the investigative process Layton thus concluded:

> Although the procedure seems simple enough, the last paragraph reflects the difficulty of proving the point. On the street and in the court, the problem was not whether the women were prostitutes, but whether they were "common" prostitutes, a difference rather unsatisfactorily defined and difficult to establish (1979, p.111).

A morality squad officer who had spent several years on the Vagrancy C enforcement detail in the late 1960s confirmed these impressions:

> The whole thing was an absolute charade. If anybody was victimized, it was the police. To enforce this stupid piece of legislation, we had to go through this song and dance to gain evidence that was going to be acceptable in court. The law makers couldn't bring themselves to make prostitution illegal per se, so we had to go through this song and dance. First of all we had to establish that she was a common prostitute. Now that's a story in itself. Then she had to be found wandering abroad in a public place -- more legal argument -- failing to give a good account of herself when requested to do so...
>
> Whenever you ran across someone new, you couldn't do anything... All you could do was warn her in a formal and prescribed way: "I believe that you are prostituting yourself and I am warning you to stop because if you continue, you're going to be charged under the vagrancy section of the Criminal Code..." That warning would be carded into the files and if somebody else caught her in a "reasonable length of time" -- and that depended on whatever judge you happened to be in front of -- she could be charged. In less than three months, you'd have to catch her again for the commonality warning to stand up in court...
>
> Of course, this encouraged the girls to circulate around. This practice created a circuit. The girls that charged the higher fees, the smarter ones, they'd move from Vancouver, over to Edmonton, down to San Francisco, and so on. They didn't become too well known in any one area. If they had anything on the ball at all, any brains at all, I'm sure it wasn't too difficult to avoid ending up in court.

None of this makes Vag. C. sound like a "successful" tool of law and order.

From a control perspective the advantage of s.195.1 over Vag C. was that it could be applied to the transvestite and transsexual prostitutes working in Vancouver's West End. It may have been for this reason that police utilization of the first version of s.195.1 against prostitutes during the first two years of its use was almost as vigorous as their use of the second version of s.195.1 in an equivalent time period (Figure 26). The huge increase in the number of street prostitution charges in 1973, the year after the repeal of Vag. C, may indicate that s.195.1 was a considerable improvement over Vag. C in a more general sense; i.e. it negated the need for the Vag. C warning and evidence gathering, and was thus a much easier law to enforce. For a variety of reasons, then, it seems that the containment of prostitution during the Vag. C enforcement regime was not so much a matter of deterrence as it was an equilibrium that had been reached between street and off-street prostitution through the intersection a number of other factors that are rarely considered by the groups which called for Bill C-49 in the first place, and which are now calling for harsher sentences.

One question that is difficult to answer at this point is how successful the enforcement of the first version of s.195.1 was in Vancouver in 1973 and 1974 when some 1400 charges were laid. It is difficult to tell what prompted police zeal at this time. The issue of prostitution in the West End had been raised in the fall of 1972 and that may well have been responsible for the concerted effort against the street trade in the following two years. What we don't know is how much this enforcement effort was successful in reducing street prostitution. If the police figures cited by Layton (1975, p. 103 and quoted above) are anything to go by, the number of street prostitutes in 1974 was equivalent to what it is now. The drop in the number of charges laid in 1975 may reflect police enforcement decisions rather than any decline in the number of street prostitutes, as Vice Squad efforts turned increasingly to the Penthouse Cabaret. Since proactive vice law enforcement is often a zero-sum game (to the extent that a fixed quantity of resources are allocated to "vice" control), the decline in the effort against street prostitution may simply reflect the change of law enforcement emphasis at that time to the off-street trade.

The reduction of the s.195.1 enforcement effort after 1974 may also have partly reflected the growing police disenchantment with the first version of s.195.1 which was continually subject to challenge in the courts. Layton (1979) noted that of 72 s.195.1 cases she examined in 1974, not guilty pleas had been entered in all but six of them. She attributes this tendency to plead not guilty to the expansion of Legal Aid funding in combination with the loose wording of the statute. She also noted that if Vag. C were to be reintroduced, it would likely have faced the same challenges in court given its similarly vague wording. One wonders what contemporary courts would make of the requirement that a prostitute not be in a public place without being able to "give a good account of herself?" What would a "good account" consist of in the cultural and legal environment of 1988?

The point of this discussion is that it throws the very logic of Bill C-49 into question. Lobby groups in Vancouver campaigned for the repeal of the first version of s.195.1 in the belief that it had been emasculated by jurisprudence. It logically followed that the street prostitution problem would be solved by a reinvigorated law that would allow successful prosecution of prostitutes and clients who meet each other on Vancouver streets. Now they are suggesting that the new version of s.195.1 has failed because it is not punitive enough.

We have suggested that this logic is flawed. For one thing, sentences for street prostitution offences prior to the Hutt decision do not appear to have been much harsher than the ones levied now, and yet according to the "failure of s.195.1" theory these sentences were sufficient to keep street prostitution offences in check. For another thing, it is a mistake to think that street prostitution had not already been a concern prior to the Hutt decision; an examination of newspaper articles in the early 1970s has revealed that street prostitution already was a "problem" in the West End of Vancouver at the time when Vagrancy C was allegedly holding everything in check. If street prostitution did not occasion much concern before this, it was because it was restricted to the skid road and Chinatown areas which evinced little "public" concern.

Rather than the failure of s.195.1, we have suggested that many of the changes in prostitution in Vancouver in the post war period prior to 1978 had very little to do with law enforcement efforts, but reflect a host of other social changes. The one exception is the effect of the closure of the Penthouse Cabaret (and its impact on other clubs locally renowned as prostitute pick-up spots), a law enforcement manoeuvre which dramatically highlights the contradictory and self-defeating nature of Canadian prostitution law.

From a purely instrumental perspective, what these historical vignettes suggest is that if prostitution is going to continue to be legal in Canada, legislation should be designed in such a way that it tells prostitutes where they can work. If prostitution itself is not going to be made illegal, anything short of a thorough overhaul of all prostitution law (for the reasons already outlined by the Fraser Committee, but totally ignored by Bill C-49) would be hypocritical and unjust.

VIII. SUMMARY OF FINDINGS AND CONCLUSIONS

A. SUMMARY OF FINDINGS

ENFORCEMENT OF S.195.1

- Enforcement of s.195.1 is the responsibility of the Vice Intelligence Unit. Charges are laid as a consequence of evidence gathered by a female officer standing on the street posing as a prostitute, or a male officer driving an automobile posing as a trick. As a result almost all charges are laid under clause (c) of s.195.1.

- In 1986 and 1987 a total of 2180 s.195.1 charges were laid (1648 against prostitutes, 532 against tricks). 50.8% of the charges against prostitutes involved persons previously charged under s.195.1; *810 individual prostitutes were charged during the first two years of the law's operation*. There were only 11 trick repeat offenders.

- In 1986 there was a total of 760 s.195.1 charges laid. In 1987 there were 1420 charges, an 86.8% increase.

- In 1986 a total of 29 s.195.1 charges were laid against youths, as compared to 85 charges in 1987 from January 1st to August 31st, an increase of nearly 300%. This change appears to reflect an increased emphasis on the prosecution of youths rather than an increase in the proportion of youths on the street.

- To obtain a conviction the Crown has to be able to establish a) that a "communication" (which is usually, but not always, verbal) took place; b) that the communication concerned sex in return for payment; and c) that the communication occurred in a "public place."

- Our Crown and police respondents generally did not think that when a police decoy communicates with a prostitute it matters who initiates the conversation, or who initiates the mention of sex or money within the conversation. In practice, the decoy is instructed not to initiate mention of both sex and money.[1] In the case of tricks, the decoy usually attempts to maneuver the suspect into introducing the topics of both sex and money into the conversation, and usually has little trouble doing so.

- Most prostitutes are easily maneuvered into a conversation which provides enough evidence to warrant laying a charge against them. Since they rarely take the stand during the trial, they only occasionally get to challenge the accuracy of the police account of the conversation that took place.[2] A growing number of "untouchables," however, refuse to mention either sex or money under any circumstances, insisting that the would-be trick do all the talking. Tricks are not as sensitive to the need to watch out for police decoys as prostitutes and usually do no more than ask if the prospective prostitute is a police officer. Prostitutes tend to take more counter-measures to avoid being charged, including asking would-be tricks to expose themselves, etc. Despite these counter-measures, in a two week observation period in 1987, charges were laid against approximately 80% of the prostitutes approached by police decoys.

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[1] Some recent decisions have determined that it is important that the discussion of the act of prostitution takes place before the car is in motion, but these cases occurred after the period dealt with in this report.

[2] If prostitutes took the stand they would be cross-examined as to why they were standing on the street in the first place; our police and Crown respondents thought that, in most cases, an honest answer to this question would be tantamount to an admission of guilt.

- Police generally issue an appearance notice to a person charged under s.195.1 and release them on the street. Between May 1986 and March 1987, however, a policy of arresting s.195.1 offenders was adopted. The policy was abandoned after a court challenge pointed out that the provisions of the Criminal Code do not provide for the automatic arrest of persons charged with summary offences. During the period that the arrest policy was in effect our sample of cases indicates that, in practice, not all offenders were taken into custody; in fact, prostitutes were twice as likely as tricks to be arrested and detained for a bail hearing (during this period, 80.5% of the prostitute first time offenders were arrested and detained as compared to 39.1% of the tricks).

- Youths are routinely detained for a court appearance after being charged under s.195.1.

- In explaining why approximately three prostitutes are charged to every trick police and Crown commentators reasoned that while an equivalent manpower is devoted to investigations against tricks and prostitutes, the results are not equivalent because it takes a much greater time to discover and apprehend tricks as compared to prostitutes (the male police decoy is proactive -- he approaches the prostitute; the female decoy is reactive -- she has to wait for the trick to approach her). Our findings, however, suggest that there was not much difference in the time it takes to process prostitutes and tricks, that more investigative time was devoted to prostitutes than tricks, and that the main practical limiting factor precluding more attention to tricks was the small number of female police officers available for and able to successfully carry out decoy duty. In addition, one police administrator argued that because s.195.1 enforcement tends to be at least partly complaint oriented, and since most complaints are about the presence of a specific prostitute in a specific location (rather than a specific trick in a specific location), the emphasis of s.195.1 enforcement should be on prostitutes. The question we need to ask is whether complaints are an appropriate criterion for allocating manpower to different facets of prostitution law enforcement. This question can only be answered when legislators decide what the overall goal of Canadian prostitution law as a whole actually is (or ought to be) ought to be.

- Male prostitutes (excluding transsexuals and transvestites) were not as likely as female prostitutes to be charged for s.195.1 offences. Head counts in 1986 and 1987 indicate that about 10% of street prostitutes were males who dressed as males; only 3% of s.195.1 charges in 1986 and 1987 were laid against such persons. One explanation of this inequity is the possible reticence of male police officers to pose as homosexual tricks.

- For the first sixteen months after the enactment of Bill C-49, s.195.1 enforcement was concentrated in Mount Pleasant. In the latter part of 1987, after the summer Prostitution Task Force had displaced many prostitutes out of Mount Pleasant, enforcement emphasis switched to Strathcona.

* Female police decoys posing as prostitutes work almost exclusively in Strathcona and Mount Pleasant. During the period of our research s.195.1 was rarely enforced against tricks picking up prostitutes in the Richards-Seymour stroll (of 230 tricks who had been processed through court by April 1987, only 5.2% were charged in this area).

* s.195.1 was not enforced on Saturdays and Sundays when the Vice Intelligence Unit was off duty.

* The peak period of enforcement activity on weekdays was between 6.00 in the evening and 1.00 the following morning. There is evidence that this diurnal enforcement pattern has occasioned the temporal displacement of street prostitute activity; several of the prostitutes we interviewed stated that, because they thought (correctly) that the Vice Squad was most active in the evening, they worked more in the early hours of the morning in order to avoid police decoys.

BAIL CONDITIONS

* Judges are inconsistent in their application of conditions of interim release. Some impose area restrictions, some do not (of 89 prostitute first offenders in our sample who were held for a bail hearing, area restrictions were applied in 52.3% of cases). Tricks who were arrested were less likely than prostitutes to be required to abide by area restrictions (only 24.1% of the tricks in our sample of cases appeared for a bail hearing and only 31% of them were released subject to an area restriction).

PROSECUTION

* Prostitutes were much more likely than tricks to "fail to appear" in court (20.2% of the prostitutes in our sample had failed to appear at some point prior to their trial as compared 1.3% of tricks).

* Trials are quite straightforward and usually take only ten to twenty minutes to complete.

* Of the first time offenders in our sample of 341 cases, 50.4% of the prostitutes, 62.5% of the tricks, and 95% of the youths pleaded guilty (275 of the 341 cases involved persons never previously convicted under s.195.1).

* Successful defences of prostitutes have related mainly to technical legal issues. In some cases tricks have been acquitted on the grounds that while they spoke to a person they thought was a prostitute, they had not actually intended to carry through with a purchase of sexual services. There was a 92.3% conviction rate for prostitutes, and 78.5% rate for tricks in the sample of cases that we examined.

SENTENCES

- On the first offence the Crown asks for a substantial fine and probation with area restrictions if the offence was committed in a residential area. On repeat offences the Crown requests a "substantial period of incarceration," the period increasing according to the number of previous convictions. There is no indication in the sentencing guidelines distributed to prosecutors exactly what "substantial" means.

- In the case of trick first offenders the most frequent sentence was a fine (45.2% of sentenced offenders), followed by a conditional discharge with a period of probation (33.9%). The average fine was $138.75 and the average period of probation was 9.39 months. No tricks were jailed for a first offence.

- In the case of prostitute first offenders, the most frequent disposition was a suspended sentence accompanied by a period of probation (36.9%). The next most frequent disposition was a fine (30.1%). A further 10.5% of sentenced first offenders were given a conditional discharge and probation, 9.8% were fined and given a term of probation, and 10.5% were imprisoned (receiving an average of 7.86 days). The average fine was $126.41 and the average period of probation was 10.63 months.

- There are two main differences in sentences awarded to first time offender prostitutes and tricks: a) 10.5% of prostitutes were jailed while no tricks were jailed; b) judges were relatively more likely to suspend the sentence of a prostitute (usually in conjunction with a period of probation) than a trick and more likely to conditionally discharge a trick (again in conjunction with a period of probation) than a prostitute. This is an important difference since a suspended sentence gives a person a criminal record, but a conditional discharge (as long as the conditions are fulfilled) does not. Thus first time offender prostitutes are more likely to be "criminalized" than first time offender tricks.

- The majority of first time offender youths were placed on probation (84.2% of sentenced offenders). Fines were never levied. Under the terms of the Young Offender's Act youths cannot be sentenced to closed custody because s.195.1 is a summary offence.

- Our sample of 341 cases included 43 second offences, 10 third offences, four fourth offences and two fifth offences (i.e. 28.8% of our sample of cases involved repeat offenders; most of the sample charges were laid prior to April 1987). The proportion of jail terms handed down increased from 10.5% (average=7.6 days) in the case of first offenders, 27.9% (average=11.6 days) in the case of persons with one previous conviction, and 62.5% (average=22 days) in the case of persons with more than one previous conviction. Similarly the average fine increased with the number of previous convictions from $126.41 (no previous convictions) to $194.74 (one previous conviction) to $225.00 (two previous convictions). Although our sample of persons with more than two convictions is very small, police reports confirm that on a third offence prostitutes usually receive prison sentences of 7 to 30 days, and from 7 to 90 days on subsequent convictions. A term of probation usually accompanies a jail sentence.

* In the case of tricks, almost all our respondents agreed that s.195.1 deters individual tricks once they have been prosecuted, but that as a general deterrent, s.195.1 has been of limited value. One important question remains unanswered by our research: what proportion of men approaching prostitutes on city streets realize that what they are doing is illegal (several of the tricks we interviewed certainly did not)?

* In the case of prostitutes our criminal justice and social work respondents again thought that s.195.1 had a limited general deterrent effect. They did, however, feel that prosecution might deter neophytes or dilettantes. Present sentences were thought to have little individual deterrent effect in the case of most street prostitutes.

EFFECTS OF S.195.1 ENFORCEMENT ON LEVELS OF STREET PROSTITUTION

* Head counts of street prostitutes conducted between 1982 and 1988 indicate that *the revision of s.195.1 had only a short-lived impact on levels of street prostitution in Vancouver* (Figure 5). When we take the months April, May and June for the years 1984 through 1987 (the only three months for which we have complete counts for each of these four years) we find that the average count in 1986 (the first year of s.195.1 enforcement) was 44.7% less than in 1985, and 61% less than in 1984 (Figures 5).[3] In 1987 the average count increased to the point where it was over twice the 1986 average and 23% higher than in 1985.

* While some of our Crown and police interview subjects believed that s.195.1 has helped to control prostitution in residential areas, they generally concluded that since the enactment of Bill C-49 it was the 1987 Mount Pleasant Prostitution Task Force which had the main impact on the geography of street prostitution in Vancouver. The main effect of the Task Force was displacement of prostitutes to the other two primary prostitution strolls -- Seymour-Richards and Strathcona -- not the reduction of the overall amount of street prostitution (Figures 4 and 9). The information presented in this Report suggests that the only sense in which s.195.1 contributed to this displacement was that, by making clear the legislature's intention to criminalize public communication for the purpose of prostitution, the Vancouver Police Department felt justified in taking a hard stand against the trade in residential Mount Pleasant. Although the emphasis of s.195.1 enforcement shifted from Mount Pleasant to Strathcona after the summer of 1987, it appears to have had little impact on levels of street prostitution in Strathcona as of the time of writing. Similarly, although s.195.1 enforcement in 1986 and the first half of 1987 was concentrated in Mount Pleasant, it was not until the Task Force began operating in May 1987 that trends in levels of street prostitution in Mount Pleasant diverged from the other two areas (Figure 9). It remains to be seen if a stepped up uniform police presence in Strathcona displaces prostitution once again.

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[3] Note that the 1985 average was 28% less than in 1984, a reduction that appears to be unrelated to law enforcement patterns.

PROFILES OF PROSTITUTES AND TRICKS

* Information about prostitutes and tricks presented in this Report comes from three sources: a) A sample[4] of 341 s.195.1 charges (79 tricks,[5] 208 adult prostitutes and 54 youths); once duplicate records on persons who appeared twice (by virtue of having committed more than two offences) were accounted for there were 191 adult prostitutes, 51 youths and 79 tricks. b) Interviews with 45 prostitutes (34 females, 7 transsexuals/transvestites, 4 males) and 17 tricks (all male). c) Police files relating to s.195.1 offenders and other prostitutes.

Prostitutes

* Of the prostitutes appearing in our sample of cases from Crown and court files:

  a) 89% were female and 11% were male (including transvestites and transsexuals);
  b) 83.6% described themselves as single;
  c) the majority (72.5%) were "white;"
  d) Native Indians (19.6%) were charged at a rate which far exceeds their proportion in the population of lower Mainland British Columbia.

* Somewhere between 10% and 15% of active street prostitutes are youths. 10% of the s.195.1 charges laid against prostitutes in 1986 and 1987 involved youths. Of 287 prostitutes stopped in the Mount Pleasant area in 1986 for identity checks, 4 were aged fifteen, 14 were sixteen, and 23 were seventeen years of age (14.3% of the total). 87% of the females checked were under 30.

* Of the adult prostitutes appearing in our sample of cases (n=191), 88% were under the age of 30, and 96.7% were under the age of 35.

* Statistical estimates based on the ratio of first time to repeat offenders indicate that somewhere between 1250 and 2300 street prostitutes operated in Vancouver in 1986 and 1987 (these figures probably underestimate the true number because the statistical procedure used to generate them cannot account for in- and out-migration of prostitutes from the city, or for the number of prostitutes who might work mainly or only on weekends when the s.195.1 enforcement unit does not operate).

* Female street prostitutes interviewed in 1988 appear to come from the same kinds of family situations as prostitutes described in other recent Canadian studies (for discussion see Lowman 1987) including a similar survey conducted in Vancouver in 1984 (Lowman, 1984). Before they left home 41% of the females were victims of sexual assaults by other family members and 50% of them by non-family members (69.7% were victims of some form of sexual assault by family or non-family members prior to leaving home). 76.5% of females and 63.6% of males reported that "family violence" occurred "sometimes" or "often" during their

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[4] In the case of adults this was a one in three sample drawn in August 1987 of completed s.195.1 prosecutions (most of the charges were laid before April 1987). In the case of youths we took a one in two sample of all charges laid prior to September 1987.

[5] We collected demographic information on all the tricks (n=230) charged under s.195.1 up to April 1987.

childhood. Both males and females drifted into prostitution at a relatively early age; females usually did so after they had run away from home (76.5% of female subjects had run away from home at least once). The average age at which the males in our sample (including transsexuals and transvestites) turned their first trick was 15.6 years and females 16.3 (the average age of the males at the time of the interview was 25.8, and females, 24.6 years). 27.3% of the females and 45.5% of the males had lived in foster or group homes at some time during their childhoods. Approximately 60% of the interview subjects had not gone beyond grade 10 in school.

Generally, then, most prostitutes are detached from their families at an early age when they have few job skills or other means of support and at a time when they are not eligible for the state income assistance normally available to adults. The situational poverty of lumpen youth coupled with the apparently large male demand for sexual services form a powerful incentive to become a prostitute.

Tricks

* All of the tricks charged were men.

* The youngest trick charged was 18 years of age, the oldest was 67. Nearly 80% of the customers charged were under 45.

* 52.1% of tricks (n=230) were married; 61.6% were "white" and only 1.4% were Native Indian (18% were "Indo-Pakistani" and 16.7% were "Oriental").

* There appears to be an important class dimension to the prosecution of tricks; customers charged under s.195.1 generally fall on the lower half of the Blishen socio-economic status index (71.8% of the tricks for whom we could find an occupation recorded in police files were below 40 on this scale of 100). Presumably, the wealthier a trick, the more likely he is to patronize escort service or the higher class bar prostitutes (all of whom charge higher prices and incur more ancillary costs than street prostitutes) or a prostitute in the Seymour-Richards area, the most populous -- and most expensive -- Vancouver prostitution stroll. Since police charge very few tricks in this area it would seem to be the men patronizing the lowest priced street prostitutes who have become the main focus of law enforcement activity (similarly, the lowest class prostitutes -- those who work in Strathcona -- have also become the main target of s.195.1 enforcement).

* Approximately half the men charged under s.195.1 up to April 1987 lived in Vancouver. Only two men charged came from outside the Lower Mainland of B.C.. It would thus seem that visitors (business and otherwise) to Vancouver -- assuming that, as a group, they are no more celibate than local men -- mainly patronize escort services and strip bars where they can meet prostitutes, or go to the Richards-Seymour area, close to many of Vancouver's main hotels, where they can pick up a street prostitute without much fear of prosecution.

PROSTITUTE PERCEPTIONS OF THE EFFECTS OF BILL C-49

- Of the 45 prostitutes who we interviewed, only three had never worked the street; 18 of them had worked in both street and off-street locations. Of the 42 respondents who worked the street since Bill C-49 was enacted, 24 (57.1%) had been charged at least once under s.195.1.; 14 had been charged more than once (one had been charged eleven times). While 62% of the street prostitute respondents had worked the Richards-Seymour stroll at one time or another since the enactment of Bill C-49, only 26.6% of the charges laid against them resulted from police investigations in that area.

- The street prostitutes in our sample "turned" an average of 42.95% of their tricks in cars, 25.8% in hotel rooms and 25.2% in trick pads. One illustration of the contradictory effect of prostitution law is that if police were to vigorously enforce bawdy house laws against Vancouver hotels where street prostitutes turn tricks, it is quite likely that the percentage of tricks turned in cars would increase, thereby increasing the nuisance often associated with street prostitution.

- Prices of prostitute services do not appear to have changed much during the past ten years. Some prostitutes feel that Bill C-49 has served to reduce the number of tricks on the street thereby preventing any rise in prices.

- A comparison of 1984 and 1987-88 Vancouver prostitution survey data indicates that subjects in both samples worked approximately the same number of days (5.5) each week, although 62% of the 1987-88 sample suggested that since the enactment of Bill C-49 they have worked longer hours on any given day (as a result of there being fewer tricks) and 51.2% adjusted their work times (e.g. by working during the early morning hours) to avoid undercover police units which operate mainly in the evening.

- 26.2% of our subjects said that they had worked in other cities which they had left as a result of being charged or convicted under s.195.1.

- When asked if they knew anyone who had quit prostitution as a result of Bill C-49, 66.7% said they knew of "no-one," and a further 26.7% said "a few." Only 3 people (6.7%) said "many."

- When asked if they knew many people who had moved off the street as a result of s.195.1 enforcement, 38.6% said "no-one," 47.7% said "a few," and only 13.6% said "many."

- As with all the other components of this research, interviews with prostitutes indicate that Bill C-49 has had very little impact on levels of street prostitution in Vancouver. Generally, the head counts of street prostitutes indicate that by 1987 levels of street prostitution had returned to pre Bill C-49 levels. All the evidence at our disposal suggests that the increase in street prostitution in the latter part of 1986 was a reflection of the gradual return of prostitutes to city streets rather than the result of a large increase in the number of prostitutes operating in the city (the only other possible explanation of the head count pattern).

THE INCIDENCE OF BAD TRICKS

* One criticism of Bill C-49 when it was enacted was that it would make prostitutes more prone to trick violence. There was general disagreement among our criminal justice respondents as to the effect of Bill C-49 in this respect. Social workers generally thought that Bill C-49 had exposed prostitutes to more trick violence. 53.3% of our prostitute respondents also said that there were more bad tricks since the law's enactment. The only quantitative measure that we have been able to develop of levels of violence comes from reports of bad tricks made by prostitutes to a local prostitute rights organization (formerly called ASP, now called POWER) for publication in a "Bad Trick Sheet." Between January 1985 and April 1988 a total of 619 bad tricks were reported.

It is difficult to interpret trends in the level of reporting of bad tricks. The average number of reports each month increased in 1986, the first year of s.195.1 enforcement, then declined in 1987, only to rise sharply in 1988. If we calculated the rate of bad tricks according to head counts of prostitutes, the number in 1986 would actually be much higher than raw figures would suggest given the reduction of street prostitution at that time. Then the number of bad tricks declined appreciably in 1987. The 1988 increase of the monthly average to double the 1987 level is difficult to interpret given that we can only speculate about how long it would take for Bill C-49 to influence the vulnerability of prostitutes to trick violence.

Throughout 1988 local newspapers have devoted an increasing amount of attention to the alarming rate at which prostitutes are being murdered in Vancouver; since March 1985 at least ten female prostitutes have been murdered (in September 1988 a POWER spokeswoman told us that 21 female prostitutes have been killed in British Columbia since that time). Whether related to Bill C-49 or not, these murders highlight the vulnerability of female prostitutes to trick violence. Police spokesmen have suggested that one of the reasons these murders remain unsolved is the difficulty they have obtaining information from street people. This difficulty itself is a reflection of the way that the present regime of prostitution control through criminal law sanctions in Canada helps to marginalize prostitutes and, in so-doing, to increase their vulnerability to a certain brand of male violence. In that Bill C-49 can be said to alienate prostitutes from the protective service potential of the police, it can also be said to make them more vulnerable to trick violence.

EFFECT OF BILL C-49 ON PIMPING

* Another criticism of Bill C-49 is that it would make women more susceptible to the control of pimps who might be perceived as being able to offer protection, or help establish a network of contacts with tricks. One of the main reasons why it is difficult to ascertain the impact of Bill C-49 on "pimping" is that the legal definition of "living on the avails of prostitution" and the street definition of "pimping" are quite different. From a legal perspective a "pimp" is anyone who "lives on the avails of prostitution." From the prostitute's perspective, a pimp is a man who deliberately seeks out women to prostitute for him, while a "boyfriend" is a partner or mate. If a prostitute gives money to a boyfriend, he is, in a legal sense, living on the avails of prostitution. Because of this terminological difficulty it is not possible to determine what percentage of prostitutes are currently pimped, and if that proportion has changed since Bill C-49 was enacted. Most of our respondents agreed, however, that even using a broad definition of the term "pimp," approximately half the female Vancouver prostitutes work independently.

To the extent that Bill C-49 may have forced some women off the street it has created the opportunity for various third parties (such as persons who run escort services) to accrue greater profits from prostitution than they would have otherwise. Only 11.4% of the prostitutes we interviewed said that Bill C-49 had influenced their decision to give other people money, although 38.4% said that they thought that the Bill had made it easier for pimps to control prostitutes (32.3% said it made no difference, and 19.4% said it made it harder). We can offer no firm conclusions from these results.

IMPACT OF BILL C-49 ON YOUTH PROSTITUTES

* Of 48 youths in our sample of cases, 23 (46.9%) were aged seventeen years, 16 (32.7%) were sixteen, 9 (18.4%) were fifteen, and one was fourteen. In 1986 and 1987 110 different youths (99 females and 11 males) were charged.

* Social workers estimate that there are 300-400 "street kids" in Vancouver, of whom about 80 (20%-25%) are Native Indian.

* Generally social workers felt that s.195.1 may have helped to deter some neophytes from continuing to prostitute, but that generally it had not had much of an effect on youth prostitution.

On the positive side, some social workers felt that the revision of the street prostitution law was beneficial to the extent that it provided a new method of intervening in the lives of youth prostitutes. Some commentators welcomed this power because they believed that provincial child protection legislation does not allow police or social workers to remove youths perceived to be endangering themselves from the street. Some respondents also thought that, through the imposition of probation orders, prosecution under s.195.1 provided a general structure for controlling youths (i.e. s.195.1 was valued as a *disciplinary device*).

Taking a middle ground, other social workers, although rejecting what they viewed as the criminalization of youth prostitutes, nevertheless did see s.195.1 as a tool of last resort allowing the removal of either the very youngest or the most self-destructive youths from the street, even if only for a few days.

On the negative side some social workers questioned the wisdom of a system which criminalized youths for prostitution offences when tricks (whom they viewed as "pedophiles"), despite the enactment on 1st January 1988 of s.195(4), went unpunished. They noted that far from being a tool of last resort, s.195.1 had become the primary response to youth prostitution and simply served to entrench runaways and other youths in a criminal subculture. The vagaries of court orders made the criminal justice system into a "game" which youths "played" and served to further alienate them from mainstream society. Court orders such as area restrictions, rather than structuring youths' lives, moved youths around the city and thus served to confound the many problems which social workers already experience in trying to provide "services" for street kids.

Almost all of our commentators criticized the lack of fit between the policies of various agencies dealing with street youths.

OFF-STREET PROSTITUTION

* The volume of escort service prostitution in Vancouver is at least equal to, and probably exceeds the volume of the street prostitution trade. Also, prostitution is extensive in bars and clubs, locations which the courts might one day determine fall under the definition of a "public place" as outlined in s.195.1. Some street prostitutes also work for escort agencies, run ads in local sex trade periodicals, and work in local strip club-come-prostitute pick-up bars. Many of the women working in escort agencies and bars have never worked on the street.

* A study of patterns of advertising for sexual services from 1985 to 1987 indicates only one change: the number of escort agencies advertising in the daily newspapers doubled immediately after the enactment of Bill C-49. By 1987, however, the number of agencies placing ads had returned to 1985 levels.

ENFORCEMENT OF OTHER PROSTITUTION LAWS

* There were only five bawdy house and three living on the avails charges laid in Vancouver in 1986 and 1987. There were no procuring charges.

* Escort services are fronts for prostitution. They are particularly convenient fronts at a time when public attention and police priorities have concentrated primarily on the visible aspects of the prostitution trade. Escorts operate in Vancouver every day in a form of private decentralized prostitution which, judging from the level of complaints made to the police about it, does not cause much "nuisance." Police and Crown sources suggest that it is difficult to gather enough evidence to prosecute escort agency operators, although when Victoria police did attempt one such prosecution, they were successful. Knowing the likely impact of the closure of escort services on levels of street prostitution, our interviews with criminal justice personnel made it appear that there is an unofficial (and quite logical) policy to avoid such prosecutions. Yet if street prostitutes did all decide to work for escort agencies, the power remains latent in the law to be mobilized against the off-street trade, and possibly force prostitution back onto the street.

* Patterns of selective prostitution law enforcement mean that s.195.1, a summary conviction offence, is effectively treated as being much more serious than several indictable offences relating to prostitution (procuring, living on the avails, and buying or offering to buy sex from a youth are all indictable offences). Thus, even though police have requested more power to monitor the activities of escort agencies, they have not tried to prosecute escort agency operators and employers for procuring or living on the avails of prostitution. It would seem that, because of the current configuration of prostitution law, the police are in a no-win position to the extent that to meet the immediate goals of s.195.1 they are forced to ignore the commission of other indictable prostitution offences, since enforcement of such laws might drive more prostitutes onto the street (as it has in the past).

* A comparison of the implementation of s.195.1 and s.195(4) (the statute enacted on 1 January 1988 criminalizing the purchase, or offer to purchase the sexual services of a youth) reveals two very different enforcement responses to the enactment of new Criminal Code provisions. During the first six months of the existence of s.195(4), *an indictable offence*, only one charge was laid. While police respondents suggest that this charge rate reflects the perceived difficulty of gathering evidence and prosecuting such cases, there is, as yet, no jurisprudence on

the subject, and certainly no widespread public or political pressure for the police to experimemt with different law enforcement tactics to see how the courts will interpret s.195(4) (this new statute was mentioned only three times in Vancouver's two daily newspapers in the eleven months following its enactment; in contrast, s.195.1 was mentioned 103 times during the first twelve months of its use).

It would thus seem that law enforcement activity, to the extent that it is partly guided by lobby group pressure and the flow of public complaints, is a sort of litmus for social attitudes towards prostitution more generally. Public propriety and the protection of property are, if the public and newsmedia response to s.195(4) in comparison to s.195.1 is anything to go by, more pressing issues to police, local politicians, lobby groups and the complaint-laying public than the illegal purchase of sexual services from youths.

S.195.1 IN THE NEWS

* A description and analysis of news articles commenting on Bill C-49 and s.195.1 indicates that the performance of the new law was systematically monitored by the Vancouver press for the first six months of its existence, and has continued to resurface ever since in flurries of commentaries prompted by police initiatives, court decisions and lobby group activities. 86 articles mentioning Bill C-49/s.195.1 appeared in the Vancouver Sun and 53 in the Province in 1986 and 1987. While a range of positions in support of and criticizing the general philosophy of Bill C-49 all found expression in commentaries on the law, there was uniform agreement after the summer of 1986 that the revised version of s.195.1 had not succeeded in reducing levels of street prostitution in Vancouver.

HISTORY OF PROSTITUTION LAW ENFORCEMENT

* The common assumption that the spread of street prostitution in Vancouver was caused by a series of court decisions making the first version of s.195.1 -- the "soliciting" law -- unenforceable is not supported by any of the evidence that we have been able to find. Thus, at least in the case of Vancouver, the rationale for the enactment of Bill C-49 -- a law designed to undo the problems created by the putative demise of the first version of Section 195.1 -- was partly spurious from the start.

* Accounts of the street prostitution problem in Vancouver which blame court decisions from 1978 to 1981 for emasculating the first version of s.195.1 are partly predicated on the belief that the first version of s.195.1, and Vagrancy C. before it, *did* successfully control street prostitution. There are several reasons to doubt the validity of this belief:

a) *Vag. C and the first version of s.195.1 were both summary conviction offences*. All the evidence that we have been able to find indicates that *sentences for Vag. C and the first version of s.195.1 were of the same order as current sentences for the second version of s.195.1!* If that is the case, why do the sentences currently awarded fail to control street prostitution when the same sentences are believed to have controlled it under the regime of Vag C. and the soliciting law?

b) Vag C. did not even apply to transvestite or other male prostitutes. It obviously did not control male prostitution prior to its repeal in 1972.

c) Accounts of the use of Vag. C from research reports and interviews with police officers reveal that it was a very difficult law to enforce because of the convoluted process of gathering evidence; if Layton's (1979) research and experiential accounts of two retired Vice Squad officers are anything to go by, Vag. C certainly was not a smooth and efficient tool of prostitution control.

d) If the first version of s.195.1 did control street prostitution until jurisprudence rendered it ineffective, why were no less than 1400 charges laid in Vancouver in 1973 and 1974 (Figure 26), the first two full years of its use? The very fact that this number of charges could be laid against prostitutes at all (nearly as many as were laid against prostitutes in the first two years of enforcement of the communicating law) indicates that street prostitution was indeed extensive at that time. Police reports between 1975 and 1977 indicate that it continued to be so; the reduction of the number of s.195.1 charges laid in 1975 indicates not the reduction of street prostitution, but the transferral of police resources in an effort to suppress the off-street prostitution trade. Indeed, the highest annual rate of bawdy house charges in the post war period occurred between 1975 and 1977 (Figure 25), the period immediately prior to the Hutt decision. One wonders just how much this pattern of law enforcement contributed to the spread of street prostitution at that time!

The evidence presented in this Report indicates that street prostitution in the 1960s was kept out of public mind and sight not because of the ability of the existing street prostitution laws to control it, but because an equilibrium between street and off-street prostitution had evolved after the Second World War which had little to do with law enforcement patterns. A variety of factors upset this equilibrium in the late 1960s and early 70s, only one of which involved law enforcement efforts (particularly the closure of the Penthouse Cabaret, a private club well known as a place to meet prostitutes). When it comes to the law, it was not so much the failure of the original version of s.195.1 that was responsible for the expansion of street prostitution in Vancouver as it was the result of the operation of a set of thoroughly contradictory legal statutes relating to prostitution. From an instrumental perspective -- one which views the role of law as a tool for "social engineering" -- Canadian prostitution law is self-defeating.

One of the best examples of the inherently contradictory nature of the law is the effect of the closure of the Penthouse Cabaret in 1975 after the owners and several employees had been charged with "procuring" and "living on the avails of prostitution." Interviews with prostitutes and patterns of prostitution news reporting in Vancouver newspapers reveal that this closure of a club where anywhere up to 50 prostitutes worked on any given night was one of the main events leading to the expansion of street prostitution in the city in the latter half of the 1970s. Official police accounts invariably neglect to mention the effect of the Penthouse closure on levels of street prostitution in Vancouver.

- Our analysis of 100 years of prostitution law enforcement in Vancouver shows that a series of police initiatives (sometimes driven by external pressure, sometimes a reflection of changing local politics or Police Department policy itself) aimed at the off-street prostitution trade in Vancouver have served to make prostitution more extensive and more visible, and problems of law enforcement more intractable.

- As much as there have been several periods of major public concern about prostitution as measured by the flow of articles on the subject in local newspapers (the two main ones being 1903-1917 and 1975 to the present) there have also been periods where prostitution has effectively disappeared from view (most noticeably in the 1950s and 1960s). Generally public pressure for the police to crack down on prostitution has abated when a system of tacit police tolerance of certain aspects of the trade prevails. This tacit toleration is possible only when street prostitution can be confined to the least salubrious areas of the city (in this case, skid road, Chinatown and a section of Granville Street). Street prostitution has always existed in Vancouver in the post World War 2 period; it was only when it moved out of traditional zones of tolerance in the early 1970s that public pressure to suppress the visible aspects of the trade started to increase. In the 1950s and 1960s as well as the street prostitution that occurred in these enclaves, there was also an extensive bar and hotel prostitution trade in which taxi drivers and hotel bell hops functioned as the main intermediaries introducing tricks to prostitutes. Escort services partly filled the void left by the closure of the Penthouse and other similar establishments in the mid 1970s, although a number of bars and clubs acting as prostitute pick up centers once again flourish in Vancouver suggesting that the prostitution trade is bigger than ever.

- Despite the importance of the Penthouse closure in making street prostitution more extensive in Vancouver, it was not the original cause of the spread of street prostitution into non-traditional areas in the late 1960s and early 70s. This geographic expansion of the trade probably had little to do with law enforcement efforts. In fact, police reports and independent research from the early 1970s suggests that levels of street prostitution from 1972 to 1976 were similar to those prevailing during the period 1985 to 1987. For example, the first newspaper report since 1945 that we have been able to find specifically on prostitution in the West End of Vancouver (site of the first resident campaign against street prostitution in this period) was published in 1972 about three months after the first version of s.195.1 was enacted. This article claimed that as many as 30 prostitutes could be seen working along Davie Street and in the back lanes adjacent to it and clearly demonstrates that prostitution had spread into the West End long before jurisprudence is said to have made the first version of s.195.1 unenforceable.

- Perhaps one of the clearest conclusions of this evaluation is that police enforcement efforts rarely suppress the street prostitution trade; when they do have an impact, it is mainly in terms of moving the trade from area to area.

CRITICISMS OF THE PHILOSOPHY OF BILL C-49

- Bill C-49 sought to serve the interests of residents unilaterally without trying to tackle any of the problems faced by prostitutes that the Fraser Committee identified. Some anti street prostitution group spokespersons view any attempt to mediate the interests of residents and prostitutes as "pro-prostitute" without realizing that resident interest in being protected from nuisance might actually be served better by considering how to mediate both sets of interests. Critics of Bill C-49 ask, "How can street prostitution be expected to disappear without legislators tackling the issue of where prostitutes should work?" They point out that if the purpose of Bill C-49 was to instrumentally solve the nuisance problems attributed to street prostitution, it did nothing to resolve the contradictory and often self-defeating nature of the various prostitution statutes which appear in the Criminal Code and effectively make prostitution illegal in all but name.

- Bill C-49 did nothing to address any of the economic and social issues identified by the Fraser Committee as the most important aspects of reformulating social and political responses to adult prostitution.

* By virtue of linking the definition of a "nuisance" to the purpose of a communication (i.e. to the status of the service being bought or sold) rather than a generic behavior (the public sale or purchase of all commodities and services) s.195.1 is, like Vag. C before it, a status offence.

POLICY OPTIONS

* One of the main proposals for further revisions to s.195.1 -- more severe sentences -- emanates from the groups which originally lobbied for the enactment of Bill C-49 in the first place. Police, Vancouver Council and anti street prostitution lobby groups have all called for s.195.1 to be made into an indictable (or, at least, hybrid)[6] offence with minimum sentences for all infractions in residential areas, and for all repeat offences whether committed in residential areas or not. Our research indicates that while harsher sentences might help to suppress street prostitution, to do so they would have to be in the order of years, not weeks and months as advocates of even the most punitive policy are calling for. Calls for a minimum sentence of 7 days on a first offence in residential areas and for all repeat offences would probably not alter sentences very much, probably not enough to deter many street prostitutes. As it stands, prostitutes are already receiving prison terms for their third offence. It is doubtful that suggestions for sentences any harsher than these would be politically saleable given that prostitution is itself legal -- how heavy a penalty should there be for getting into a police officer's car and engaging in a conversation which is totally legal apart from the fact that it occurs in a public place? Critics of Bill C-49 ask, "How much of a penalty does this act deserve when the legislature refuses to tackle the question which it now faces, the same issue which the Fraser Committee raised in 1985, and which the government ignored by introducing Bill C-49 in the first place: where should prostitutes work?"

* Much of the debate about street prostitution takes a limited perspective. Groups seeking a more punitive approach to prostitution rarely consider anything other than the immediate success or failure of law enforcement efforts in explaining why street prostitution persists. There is little consideration of a variety of extra-legal factors that might influence styles of prostitution. Even when it comes to the effectiveness of prostitution law itself advocates of a more punitive approach generally do not consider the interactive and often contradictory effects of the enforcement of different prostitution statutes on styles of prostitution.

* By all accounts tricks are more likely than prostitutes to be deterred by the threat of criminalization; in a purely instrumental sense they might, in some ways, be more responsive to law enforcement efforts than prostitutes. Yet current proposals for a more punitive approach to street prostitution are generally aimed at repeat offenders, i.e. prostitutes. There is a tendency to treat the prostitute as the primary problem (it is mainly her[7] *visibility* that stimulates resident complaints to the police) and the "criminal" deserving of the greatest attention (police usually refer to the customer as a "square john" or a "citizen," not a "criminal").

* To the extent that recommendations for minimum jail sentences for offenders in residential areas would apply to tricks as well as prostitutes, sentencing differentials might serve to displace the prostitution trade out of residential areas.

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[6] whereby the Crown can elect to proceed either summarily or by indictment.

[7] We say "her" because male prostitution (excluding transsexuals and transvestites) in Vancouver is limited to a commercial area at the south end of the Richards-Seymour stroll.

For critics of Bill C-49, the question is, "Why expend the enormous amount of resources required by a punitive approach to street prostitution in residential areas when the same effect could probably be achieved simply by telling prostitutes where they can work?"

* One wonders what kind of legal problems might arise from the drawing up of a criminal law which does not give equal protection to residential and commercial property. Such a law might produce more problems than it solves, and give rise to some thorny Charter issues.

* Advocates of alternatives to a more punitive approach to adult prostitution would generally prefer to see prostitution legalized or decriminalized. While not necessarily believing that prostitution is either "good" or "bad," desirable or undesirable, most advocates of a complete overhaul of legislation relating to prostitution argue that it is not appropriate to criminalize a sex act only by virtue of the fact that a payment is involved. While the Canadian Criminal Code does not actually criminalize the act of prostitution, it encircles it so that the prostitute can be a prostitute only if he/she does not practice the trade.[8] Opponents of proposals to increase the power of the law to punish street prostitutes and tricks argue that such a plan is hypocritical and unjust, especially when not accompanied by a clear statement about where prostitutes ought to meet their clients. If the intent of the legislature is to deal with the nuisance problems attributed to street prostitution, as seems to have been the case with Bill C-49, and not to outlaw prostitution itself, it is difficult to see how it can achieve this goal without resolving the contradiction in the Criminal Code which allows the law to be mobilized against prostitution no matter where it occurs, and which helped to create Vancouver's "street prostitution problem" in the first place.

B. CONCLUSIONS

S.195.1 has functioned something like a badly repaired car. The car's road-holding problems were originally attributed to bald tires. It was returned to the factory and new tires installed. The car was immediately test driven and its engine has been revving in high gear ever since. It has become increasingly obvious to the drivers, however, that the steering mechanism is still malfunctioning. The only way that the car can negotiate corners is for its occupants to throw their weight from side to side. Now, after tiring of throwing themselves around, they are asking for a sandbag to put more weight in the trunk rather than requesting a new steering mechanism, a new car or, better yet, a new mode of transportation altogether.

In deciding how next to proceed in revising Canadian prostitution law, legislators would do well to reconsider Bill C-49 in terms of the rationale for law reform set out by the Fraser Committee.[9] One of the Committee's main messages was that the whole edifice of Canadian prostitution law needs rethinking. The government took the one step that the Fraser Committee (and the Badgley Committee before it[10]) cautioned against -- piecemeal reform involving street prostitution law only. The legislature ought to decide what the *overall* purpose of prostitution law is.

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[8] Some commentators equate prostitution law to drug law in the sense that one can technically use drugs (it is not an offence to have taken a drug) but not legally possess them. The analogy is misleading to the extent in the case of drugs a substance is involved whereas in the case of prostitution, *payment* is the key factor (you are prohibited from possessing drugs whether you pay for them or not).

[9] For commentary, see Lowman (1986b).

[10] 1984, p. 1014.

Generally, it would seem that politicians, like police, perceive prostitution as a no-win situation. It is something that politicians are unable to roundly condemn or condone. As one of our respondents noted:

> The politicians are afraid to go one way or another -- it could be political suicide... We're not willing to condone prostitution even though it would be easier to do so -- it comes down to being a moral question. Right now we're left with the politicians being able to satisfy both sides. You can say, "I think it should be legalized," and they can say, "Well, yes, it is legal." Somebody else can say, "I think it should not be legalized, I think it should be illegal," and they can say, "Well, yes, that's why we've got these laws to control it." Why would any politician rock the boat and take a hard and fast stand in either direction? (Policeman #1, Appendix 1, pp. A-25-26)

A Crown attorney offered a similar vision of contemporary political realities:

> We've been able to ... turn a blind eye to some of the realities of prostitution. We put blinders on because we have to, given the current structure of the law; there is no alternative. No politician is going to stand up and say "Hey, a red light district is what we need, guys." It's just not going to happen, not when that person then has to go out and face the church group and get elected. So, we have to find the balance between a variety of conflicting interests and calls for action. In the final analysis, organizations like ours will always have to keep dancing until some lawmaker is prepared to make a decision that either outlaws prostitution altogether or identifies a location where it can take place. I sure don't see that happening soon. (Administrative Crown Attorney, Appendix 1, p. A-76)

What the information presented in this report indicates is that we are not likely to influence the street prostitution trade much until the contradictions inherent in prostitution law are resolved. The evidence presented here suggests that Bill C-49 is unsuccessful not because of its inability to control street prostitution, but in its failure to address the fundamental problems which confront legislators about the legal status of prostitution. Given that prostitution itself is legal in Canada, the issues would appear to be: a) where to locate the trade, and b) how to regulate it. The call for a more punitive communicating law, like the campaign for Bill C-49 before it, sidetracks these issues altogether.

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TABLE 6

SEX OF ACCUSED

YOUTHS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Male	1	3	5.9	5.9	5.9
Female	2	48	94.1	94.1	100.0
	TOTAL	51	100.0	100.0	

PROSTITUTES

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Male	1	5	2.4	2.4	2.4
Female	2	184	88.5	88.5	90.9
Transsexual	3	13	6.3	6.3	97.1
Transvestite	4	6	2.9	2.9	100.0
	TOTAL	208	100.0	100.0	

TRICKS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Male	1	79	100.0	100.0	100.0
	TOTAL	79	100.0	100.0	

TABLE 7

MARITAL STATUS OF ACCUSED

YOUTHS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Single	1	42	82.4	95.5	95.5
Commonlaw	3	2	3.9	4.5	100.0
Not Stated/Unknown	9	7	13.7	MISSING	
		-------	-------	-------	
	TOTAL	51	100.0	100.0	

PROSTITUTES

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Single	1	143	74.9	83.6	83.6
Married	2	10	5.2	5.8	89.5
Commonlaw	3	10	5.2	5.8	95.3
Separated	4	4	2.1	2.3	97.7
Divorced	5	4	2.1	2.3	100.0
Not Stated/Unknown	9	20	10.5	MISSING	
		-------	-------	-------	
	TOTAL	191	100.0	100.0	

TRICKS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Single	1	81	35.2	42.6	42.6
Married	2	99	43.0	52.1	94.7
Commonlaw	3	1	.4	.5	95.3
Separated	4	5	2.2	2.6	97.9
Divorced	5	2	.9	1.1	98.9
Other	6	2	.9	1.1	100.0
Unknown	9	40	17.4	MISSING	
		-------	-------	-------	
	TOTAL	230	100.0	100.0	

TABLE 8

"RACE" OF ACCUSED

YOUTHS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Caucasian	2	39	76.5	84.8	84.8
Native American	4	3	5.9	6.5	91.3
Other	6	2	3.9	4.3	95.7
Metis	7	2	3.9	4.3	100.0
Not stated/Unknown	9	5	9.8	MISSING	
		-------	-------	-------	
	TOTAL	51	100.0	100.0	

PROSTITUTES

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Black	1	11	5.8	6.2	6.2
Caucasian	2	118	61.8	66.3	72.5
Indo-Pakistani	3	1	.5	.6	73.0
Native American	4	28	14.7	15.7	88.8
Oriental	5	3	1.6	1.7	90.4
Other	6	10	5.2	5.6	96.1
Metis	7	7	3.7	3.9	100.0
Not stated/Unknown	9	13	6.8	MISSING	
		-------	-------	-------	
	TOTAL	191	100.0	100.0	

TRICKS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Black	1	2	.9	.9	.9
Caucasian	2	137	59.6	61.7	62.6
Indo-Pakistani	3	40	17.4	18.0	80.6
Native American	4	3	1.3	1.4	82.0
Oriental	5	37	16.1	16.7	98.6
Other	6	3	1.3	1.4	100.0
Not Stated/Unknown	9	8	3.5	MISSING	
		-------	-------	-------	
	TOTAL	230	100.0	100.0	

TABLE 10

AGE OF ACCUSED

YOUTH

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	14	1	2.0	2.0	2.0
	15	9	17.6	18.4	20.4
	16	16	31.4	32.7	53.1
	17	23	45.1	46.9	100.0
Not Stated/Unknown	88	2	3.9	MISSING	
		-------	-------	-------	
	TOTAL	51	100.0	100.0	

Mean Age = 16.24

PROSTITUTES

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	18	17	8.9	9.2	9.2
	19	14	7.3	7.6	16.8
	20	15	7.9	8.2	25.0
	21	17	8.9	9.2	34.2
	22	19	9.9	10.3	44.6
	23	12	6.3	6.5	51.1
	24	16	8.4	8.7	59.8
	25	17	8.9	9.2	69.0
	26	15	7.9	8.2	77.2
	27	5	2.6	2.7	79.9
	28	9	4.7	4.9	84.8
	29	6	3.1	3.3	88.0
	30	7	3.7	3.8	91.8
	31	3	1.6	1.6	93.5
	32	2	1.0	1.1	94.6
	33	2	1.0	1.1	95.7
	34	2	1.0	1.1	96.7
	35	1	.5	.5	97.3
	36	1	.5	.5	97.8
	40	1	.5	.5	98.4
	45	1	.5	.5	98.9
	46	1	.5	.5	99.5
	47	1	.5	.5	100.0
Not Stated/Unknown	88	7	3.7	MISSING	
		-------	-------	-------	
	TOTAL	191	100.0	100.0	

Mean 24.092 Std Err .359 Median 23.000 Mode 22.000
Range 29.000 Minimum 18.000 Maximum 47.000

TABLE 10 (Cont.) TRICKS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	18	3	1.3	1.4	1.4
	19	4	1.7	1.9	3.3
	20	5	2.2	2.3	5.6
	21	3	1.3	1.4	7.0
	22	6	2.6	2.8	9.8
	23	14	6.1	6.5	16.3
	24	5	2.2	2.3	18.6
	25	9	3.9	4.2	22.8
	26	8	3.5	3.7	26.5
	27	9	3.9	4.2	30.7
	28	8	3.5	3.7	34.4
	29	7	3.0	3.3	37.7
	30	3	1.3	1.4	39.1
	31	8	3.5	3.7	42.8
	32	7	3.0	3.3	46.0
	33	5	2.2	2.3	48.4
	34	7	3.0	3.3	51.6
	36	8	3.5	3.7	58.6
	37	6	2.6	2.8	61.4
	38	9	3.9	4.2	65.6
	39	7	3.0	3.3	68.8
	40	8	3.5	3.7	72.6
	41	5	2.2	2.3	74.9
	42	4	1.7	1.9	76.7
	43	1	.4	.5	77.2
	44	4	1.7	1.9	79.1
	45	4	1.7	1.9	80.9
	46	3	1.3	1.4	82.3
	47	6	2.6	2.8	85.1
	48	1	.4	.5	85.6
	49	4	1.7	1.9	87.4
	50	2	.9	.9	88.4
	51	4	1.7	1.9	90.2
	52	1	.4	.5	90.7
	53	4	1.7	1.9	92.6
	54	2	.9	.9	93.5
	55	2	.9	.9	94.4
	56	1	.4	.5	94.9
	57	1	.4	.5	95.3
	59	3	1.3	1.4	96.7
	60	2	.9	.9	97.7
	62	1	.4	.5	98.1
	63	1	.4	.5	98.6
	64	1	.4	.5	99.1
	67	2	.9	.9	100.0
Not Stated/Unknown	88	15	6.5	MISSING	
	TOTAL	230	100.0	100.0	

Mean	35.256
Std Err	1.266
Median	34.0
Mode	23.0
Range	49.0
Minimum	18.0
Maximum	67.0

TABLE 13

NUMBER OF POST C-49 195.1 CHARGES (PRIOR TO THE CURRENT CHARGE) NOT RESULTING IN CONVICTIONS

YOUTHS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	0	53	98.1	98.1	98.1
	1	1	1.9	1.9	100.0
	TOTAL	54	100.0	100.0	

PROSTITUTES

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	0	193	92.8	92.8	92.8
	1	13	6.3	6.3	99.0
Not Stated/Unknown	8	2	1.0	1.0	100.0
	TOTAL	208	100.0	100.0	

TRICKS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	0	77	97.5	97.5	97.5
Not Stated/Unknown	8	2	2.5	2.5	100.0
	TOTAL	79	100.0	100.0	

TABLE 26

PLEA OF ACCUSED

YOUTHS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Guilty	1	38	70.4	70.4	70.4
Not guilty	2	2	3.7	3.7	74.1
Trial outstanding	3	4	7.4	7.4	81.5
Warrant outstanding	4	4	7.4	7.4	88.9
Proceedings halted	5	6	11.1	11.1	100.0
		-------	-------	-------	
	TOTAL	54	100.0	100.0	

PROSTITUTE'S FIRST OFFENCE

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Guilty	1	69	46.6	46.6	46.6
Not guilty	2	68	45.9	45.9	92.6
Warrant outstanding	4	4	2.7	2.7	95.3
Proceedings halted	5	7	4.7	4.7	100.0
		-------	-------	-------	
	TOTAL	148	100.0	100.0	

PROSTITUTE'S SECOND OFFENCE

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Guilty	1	26	60.5	63.4	63.4
Not guilty	2	15	34.9	36.6	100.0
Not stated/Unknown	9	2	4.7	MISSING	
		-------	-------	-------	
	TOTAL	43	100.0	100.0	

TABLE 26 (Cont)

PLEA OF ACCUSED

PROSTITUTE'S THIRD AND SUBSEQUENT OFFENCES

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Guilty	1	6	37.5	37.5	37.5
Not guilty	2	9	56.3	56.3	93.8
Proceedings halted	5	1	6.3	6.3	100.0
	TOTAL	16	100.0	100.0	

TRICKS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Guilty	1	45	57.0	57.0	57.0
Not guilty	2	27	34.2	34.2	91.1
Proceedings halted	5	7	8.9	8.9	100.0
	TOTAL	79	100.0	100.0	

TABLE 27

DISPOSITION

YOUTHS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Stay of proceedings	1	6	11.1	11.1	11.1
Guilty	6	40	74.1	74.1	85.2
Trial outstanding	7	4	7.4	7.4	92.6
Warrant outstanding	8	4	7.4	7.4	100.0

PROSTITUTES

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Stay of proceedings	1	3	1.4	1.4	1.4
Dismissal/Not Guilty	4	9	4.3	4.3	5.8
Guilty	6	192	92.3	92.3	98.1
Warrant outstanding	8	4	1.9	1.9	100.0
	TOTAL	208	100.0	100.0	

TRICKS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Stay of proceedings	1	7	8.9	8.9	8.9
Withdrawl	3	2	2.5	2.5	11.4
Dismissal/Not Guilty	4	8	10.1	10.1	21.5
Guilty	6	62	78.5	78.5	100.0
	TOTAL	79	100.0	100.0	

TABLE 54

S.195.1 SENTENCE COMBINATIONS

SENTENCE FOR ALL S.195.1 ADULT OFFENDERS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Absolute discharge	1	8	2.8	3.1	3.1
CD and probation	2	40	13.9	15.8	18.9
Fine	3	87	30.3	34.3	53.1
Fine and probation	4	19	6.6	7.5	60.6
SS and probation	5	64	22.3	25.2	85.8
Jail term	6	24	8.4	9.4	95.3
Jail and probation	7	12	4.2	4.7	100.0
Not stated/Unknown	8	33	11.5	MISSING	
		-------	-------	-------	
	TOTAL	287	100.0	100.0	

SENTENCE FOR TRICK'S FIRST CONVICTION

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Absolute discharge	1	6	7.6	9.7	9.7
CD and probation	2	22	27.9	35.5	45.2
Fine (Mean $138.75)	3	28	35.4	45.2	90.4
SS and probation	5	6	7.6	9.6	100.0
Not stated/Unknown	8	17	22.6	MISSING	
		-------	-------	-------	
	TOTAL	79	100.0	100.0	

SENTENCE FOR PROSTITUTE'S FIRST CONVICTION

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Absolute discharge	1	1	.7	.8	.8
CD and probation	2	16	10.9	12.0	12.8
Fine (Mean $128.13)	3	40	27.0	30.1	42.9
Fine and probation	4	13	8.8	9.8	52.6
SS and probation	5	49	33.1	36.9	89.5
Jail term	6	10	6.8	7.5	97.0
Jail and probation	7	4	2.7	3.0	100.0
Not stated/Unknown	8	15	10.2	MISSING	
		-------	-------	-------	
	TOTAL	148	100.0	100.0	

TABLE 54 (Continued): s.195.1 SENTENCE COMBINATIONS

SENTENCE FOR PROSTITUTE'S SECOND CONVICTION

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Absolute discharge	1	1	2.3	2.3	2.3
CD and probation	2	2	4.7	4.7	7.0
Fine	3	16	37.2	37.2	44.2
Fine and probation	4	5	11.6	11.6	55.8
SS and probation	5	7	16.3	16.3	72.1
Jail term	6	7	16.3	16.3	88.4
Jail and probation	7	5	11.6	11.6	100.0
		-------	-------	-------	
	TOTAL	43	100.0	100.0	

SENTENCE FOR PROSTITUTE'S THIRD OR FOURTH CONVICTION

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Fine	3	3	17.6	18.8	18.8
Fine and probation	4	1	5.9	6.3	25.0
SS and probation	5	2	11.8	12.5	37.5
Jail term	6	7	41.2	43.8	81.3
Jail and probation	7	3	17.6	18.8	100.0
Not stated/Unknown	8	1	5.9	MISSING	
		-------	-------	-------	
	TOTAL	17	100.0	100.0	

TABLE 56

SENTENCES FOR FIRST TIME S.195.1 OFFENDERS WITH NO OTHER CRIMINAL RECORD BY DATE OF SENTENCE

TRICKS

Count Row Pct	Absolute discharg 2	Fine 4	Suspnded sentence 5	Prob-ation 7	CD and probat 8	SS and probat 9	Row Total
1986	2 9.1	9 40.9	1 4.5	1 4.5	8 36.4	1 4.5	22 50.0
1987	2 9.1	9 40.9			9 40.9	2 9.1	22 50.0
Column	5	29	2	19	12	3	44

PROSTITUTES

Count Row Pct	Absolute dischar 2	Fine 4	Suspende d senten 5	CD and p robation 7	Fine and probati 8	SS and p robation 9	Jail term 10	Jail and probati 11	Row Total
1986		13 40.6		6 18.8	4 12.5	7 21.9	1 3.1	1 3.1	32 43.8
1987	1 2.4	11 26.8	1 2.4	9 22.0	4 9.8	14 34.1		1 2.4	41 56.2
Column Total	1 1.4	24 32.9	1 1.4	15 20.5	8 11.0	21 28.8	1 1.4	2 2.7	73 100.0

TABLE 60

CRIMINAL CODE SECTION 195.1: TOTAL NUMBER OF CHARGES LAID IN VANCOUVER
1 JANUARY 1986 TO 31 DECEMBER 1987

(Source: Vancouver Police Department Vice Intelligence Unit)

CUSTOMERS = 532 Charges (11 repeat Charges)

PROSTITUTES = 1648 Charges

Number of Individual Prostitutes Charged

Adult Female	644	77%
Juvenile Female	99	12%
Adult Male	84	10%
Juvenile Male	11	1%

Number of Repeat Charges Against Prostitutes

Adult Female	706	87%
Juvenile Female	47	6%
Adult Male	56	7%
Juvenile Male	1	.1%

Note: Of 1648 charges laid against prostitutes, 810 (49%) were against persons previously charged under this legislation.

Number of Charges Against:

Adult Prostitutes = 1490 (90%) Youth Prostitutes = 158 (10%)

Number of Charges Against Individual Tricks = 521

LOCATION OF CHARGE

Mount Pleasant	827	38%
Seymour/Richards	652	30%
East End	701	32%

AVERAGE DISPOSITION

First Conviction: A fine averaging $100 or a suspended sentence or conditional discharge with 9 months probation.

Second Conviction: Fine of $300 or short period of imprisonment

Third Conviction: 14 days was the most frequent penalty

Fourth and Subsequent Convictions: 7 to 90 days

TABLE 84

WORK DIFFERENT STROLL AREAS DUE TO 195.1?

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
One area only	1	21	46.7	51.2	51.2
One area mostly	2	12	26.7	29.3	80.5
Different areas	3	8	17.8	19.5	100.0
	.	3	6.7	MISSING	
Not stated/Unknown	8	1	2.2	MISSING	
		-------	-------	-------	
	TOTAL	45	100.0	100.0	

TABLE 85

WHY MOVE BETWEEN STROLLS?
(MULTIPLE RESPONSE)

Value Label	Value	Frequency	Percent of cases
Find tricks	1	7	43.8
Avoid police	2	13	81.3
Variety	3	2	12.5
Police order	4	1	6.3
Court order	5	2	12.5
Competition	6	3	18.8
Other	7	1	6.3
Not Stated/Unknown	8	4	8.9
		-------	-------
TOTAL # OF RESPONDENTS		20	

TABLE 86

DO POLICE AFFECT TIMES WORKED?

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Yes	1	21	46.7	51.2	51.2
No	2	20	44.4	48.8	100.0
Off Sreet Pos	.	3	6.7	MISSING	
Not stated/Unknown	8	1	2.2	MISSING	
		-------	-------	-------	
	TOTAL	45	100.0	100.0	

TABLE 87

EXPLAIN EFFECT ON TIMES WORKED (MULTIPLE RESPONSE)

Value Label	Value	Frequency	Percent of cases
Work late at night	1	13	65.0
Work afternoons	2	10	50.0
TOTAL # OF RESPONDENTS		21	

TABLE 88

KNOW ANYONE WHO QUIT PROSTITUTION BECAUSE OF 195.1?

ALL RESPONDENTS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
None	1	30	66.7	66.7	66.7
A few	2	12	26.7	26.7	93.3
Many	3	3	6.7	6.7	100.0
	TOTAL	45	100.0	100.0	

TABLE 89

KNOW ANYONE WHO MOVED OFF THE STREET DUE TO 195.1?

ALL RESPONDENTS

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
None	1	17	37.8	38.6	38.6
A few	2	21	46.7	47.7	86.4
Many	3	6	13.3	13.6	100.0
Not Stated/Unknown	8	1	2.2	MISSING	
	TOTAL	45	100.0	100.0	

TABLE 95

ARE THERE MORE OR LESS TRICKS ON THE STREET SINCE AMENDMENT?

FEMALE

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Number has dropped	1	17	50.0	58.6	58.6
Number has risen	2	2	5.9	6.9	65.5
No change	3	10	29.4	34.5	100.0
	.	2	5.9	MISSING	
Not stated/Unknown	8	3	8.8	MISSING	
		-------	-------	-------	
	TOTAL	34	100.0	100.0	

MALE

(INCLUDING TRANSSEXUALS AND TRANSVESTITES)

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Number has dropped	1	8	72.7	80.0	80.0
Number has risen	2	1	9.1	10.0	90.0
No change	3	1	9.1	10.0	100.0
	.	1	9.1	MISSING	
		-------	-------	-------	
	TOTAL	11	100.0	100.0	

REASON FOR CHANGE IN NUMBER OF TRICKS, WHEN WORKING THE STREET

(MULTIPLE RESPONSE)

Value Label	Value	Frequency	Percent of cases
Fear of arrest	1	16	61.0
Fear tricking kids	2	2	7.7
I work less	3	2	7.7
Fear of AIDS	4	2	7.7
Other	9	6	23.0
		-------	-------
TOTAL # OF RESPONDENTS		26	

TABLE 108

HAS THE LAW AFFECTED SAFETY AT WORK?

FEMALE

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Yes	1	16	47.1	53.3	53.3
No	2	14	41.2	46.7	100.0
	.	2	5.9	MISSING	
Not stated/Unknown	8	2	5.9	MISSING	
		-------	-------	-------	
	TOTAL	34	100.0	100.0	

MALE

(INCLUDING TRANSSEXUALS AND TRANSVESTITES)

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Yes	1	4	36.4	44.4	44.4
No	2	5	45.5	55.6	100.0
	.	1	9.1	MISSING	
Not stated/Unknown	8	1	9.1	MISSING	
		-------	-------	-------	
	TOTAL	11	100.0	100.0	

(MULTIPLE RESPONSE)

Value Label	Value	Frequency	Percent of cases
Desperate to get tricks	1	11	57.9
Isolation	2	8	42.1
Other	9	4	21.1
		-------	-------
TOTAL # OF RESPONDENTS		19	

TABLE 116

DOES THE LAW MAKE IT EASIER FOR PIMPS?

FEMALE

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No change	1	10	29.4	32.3	32.3
Harder for pimps	2	6	17.6	19.4	51.6
A little easier	3	9	26.5	29.0	80.6
Much easier	4	6	17.6	19.4	100.0
	.	2	5.9	MISSING	
Not stated/Unknown	8	1	2.9	MISSING	
		-------	-------	-------	
	TOTAL	34	100.0	100.0	

MALE
(INCLUDING TRANSSEXUALS AND TRANSVESTITES)

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No change	1	4	36.4	44.4	44.4
A little easier	3	2	18.2	22.2	66.7
Much easier	4	3	27.3	33.3	100.0
	.	1	9.1	MISSING	
Not stated/Unknown	8	1	9.1	MISSING	
		-------	-------	-------	
	TOTAL	11	100.0	100.0	

TABLE 117

WHY IS IT EASIER OR HARDER FOR PIMPS SINCE THE LAW?
(MULTIPLE RESPONSE)

Value Label	Value	Frequency	Percent of cases
Physical protection	1	11	34.4
Legal protection	2	7	21.9
Easier to bust them	3	5	15.6
Coercion	4	2	6.3
Dependence	5	5	15.6
Other	9	5	15.6
Not stated/Unknown	8	10	22.2
		-------	-------
TOTAL # OF RESPONDENTS		45	

TABLE 121

ANY PRE-C-49 CHARGES?

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Yes	1	9	20.0	21.4	21.4
No	2	33	73.3	78.6	100.0
	.	3	6.7	MISSING	
		-------	-------	-------	
	TOTAL	45	100.0	100.0	

TABLE 122

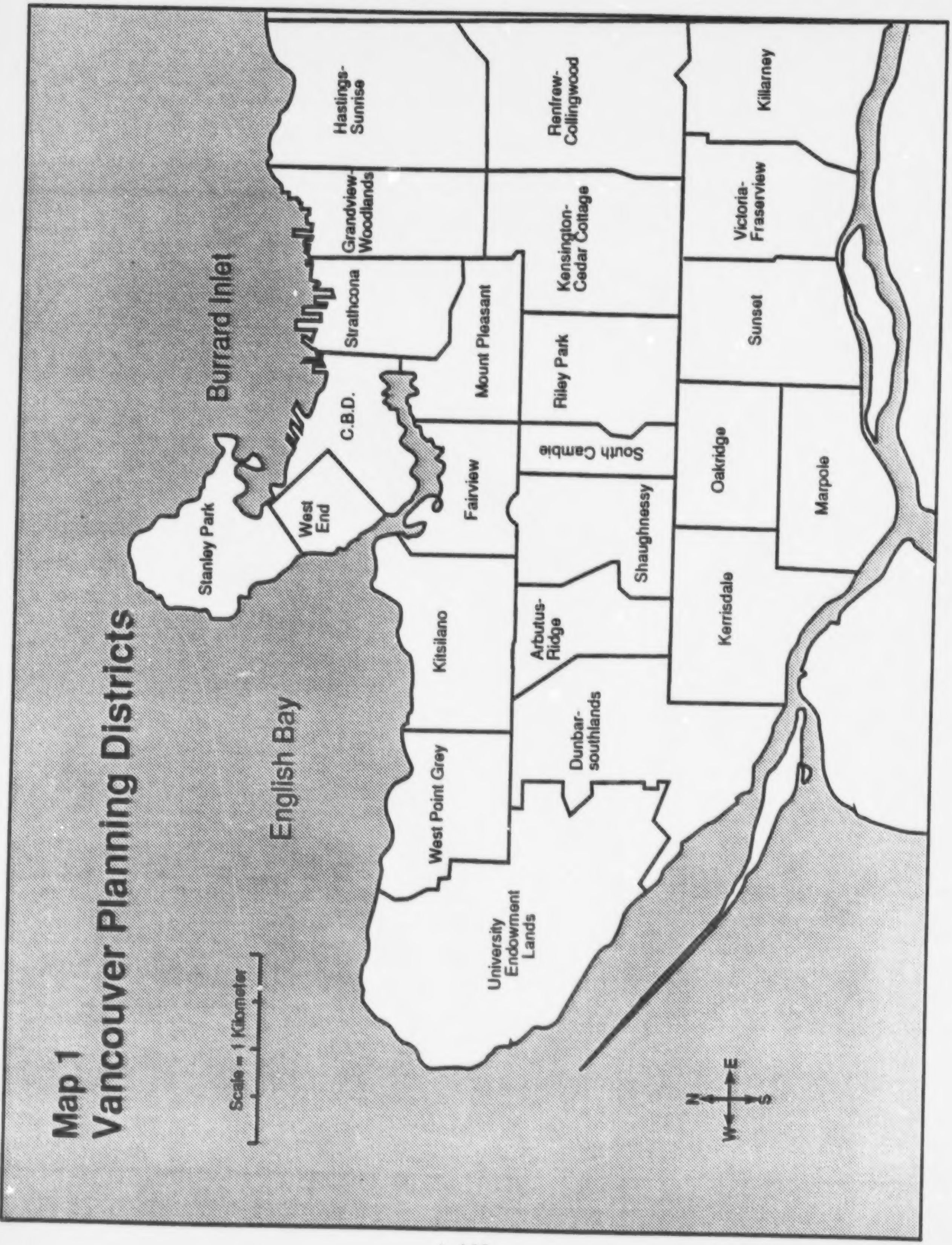
ANY CHARGES SINCE LAW AMENDED?

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Yes	1	24	53.3	57.1	57.1
No	2	18	40.0	42.9	100.0
	.	3	6.7	MISSING	
		-------	-------	-------	
	TOTAL	45	100.0	100.0	

TABLE 123

NUMBER OF POST C-49 CHARGES

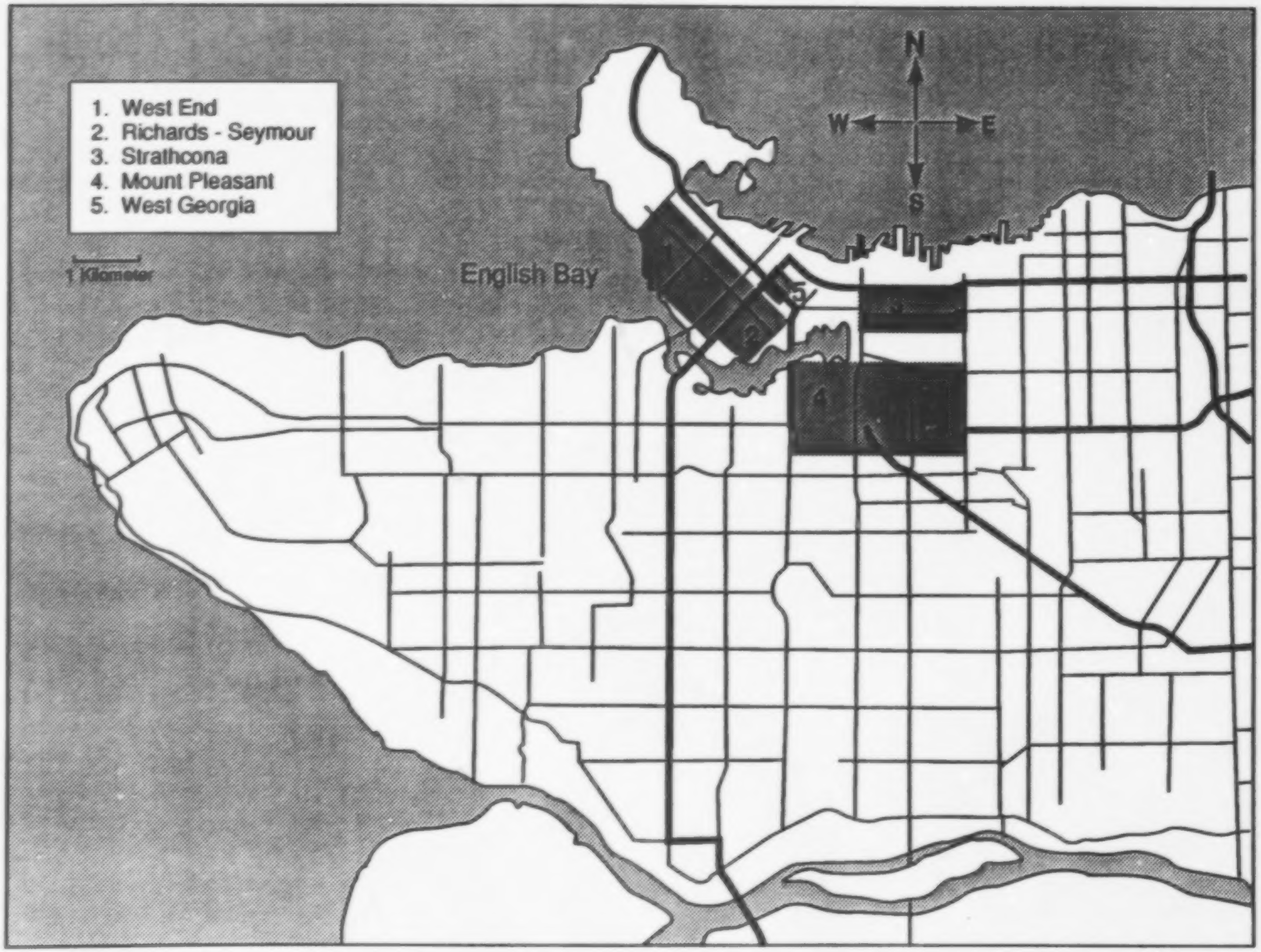
Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	1	10	22.2	41.7	41.7
	2	6	13.3	25.0	66.7
	3	4	8.9	16.7	83.3
	4	1	2.2	4.2	87.5
	5	1	2.2	4.2	91.7
	9	1	2.2	4.2	95.8
	11	1	2.2	4.2	100.0
	.	21	46.7	MISSING	
		-------	-------	-------	
	TOTAL	45	100.0	100.0	



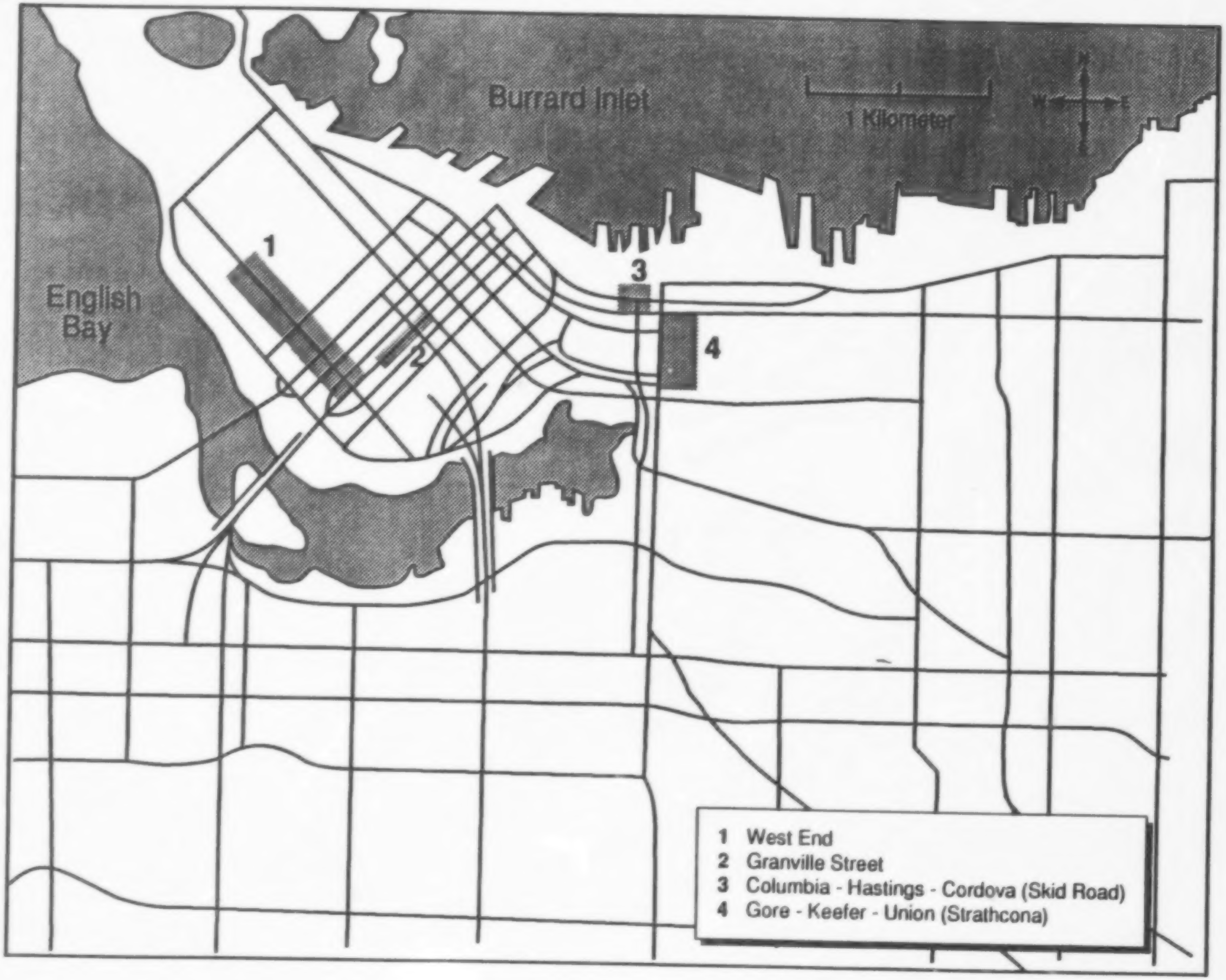
Map 1
Vancouver Planning Districts

Scale = 1 Kilometer
N
E
S
W
Burrard Inlet
English Bay
Stanley Park
West End
C.B.D.
Strathcona
Grandview-Woodlands
Hastings-Sunrise
Mount Pleasant
Fairview
Kitsilano
West Point Grey
University Endowment Lands
Dunbar-southlands
Arbutus-Ridge
Shaughnessy
South Cambie
Riley Park
Kensington-Cedar Cottage
Renfrew-Collingwood
Killarney
Victoria-Fraserview
Sunset
Oakridge
Marpole
Kerrisdale

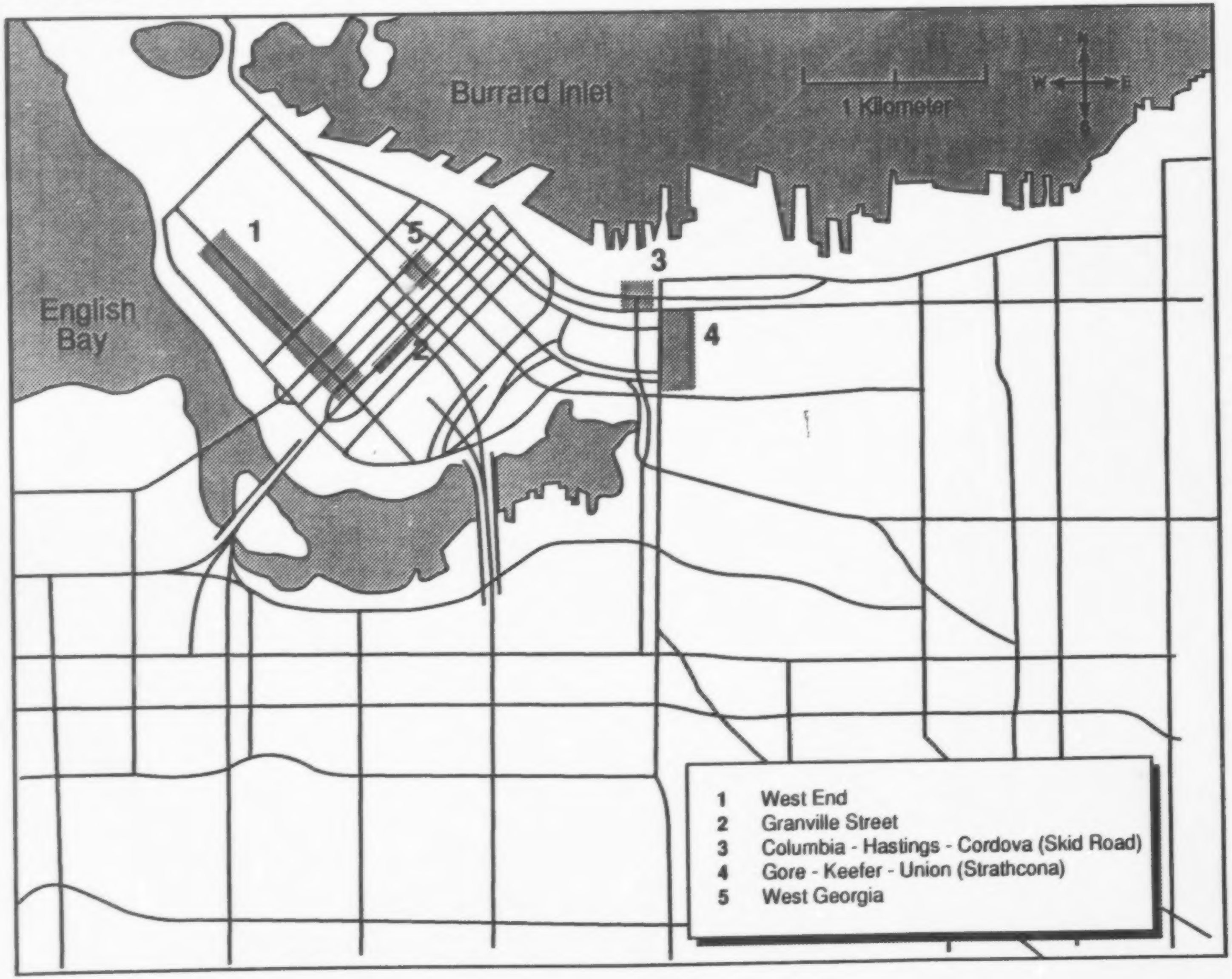
Map 2
Basemaps for Counts of Street Prostitutes


1. West End
2. Richards - Seymour
3. Strathcona
4. Mount Pleasant
5. West Georgia
1 Kilometer
English Bay
N
W
E
S
1
2
5
4

Map 3
Vancouver Prostitution Strolls 1972 - 1975

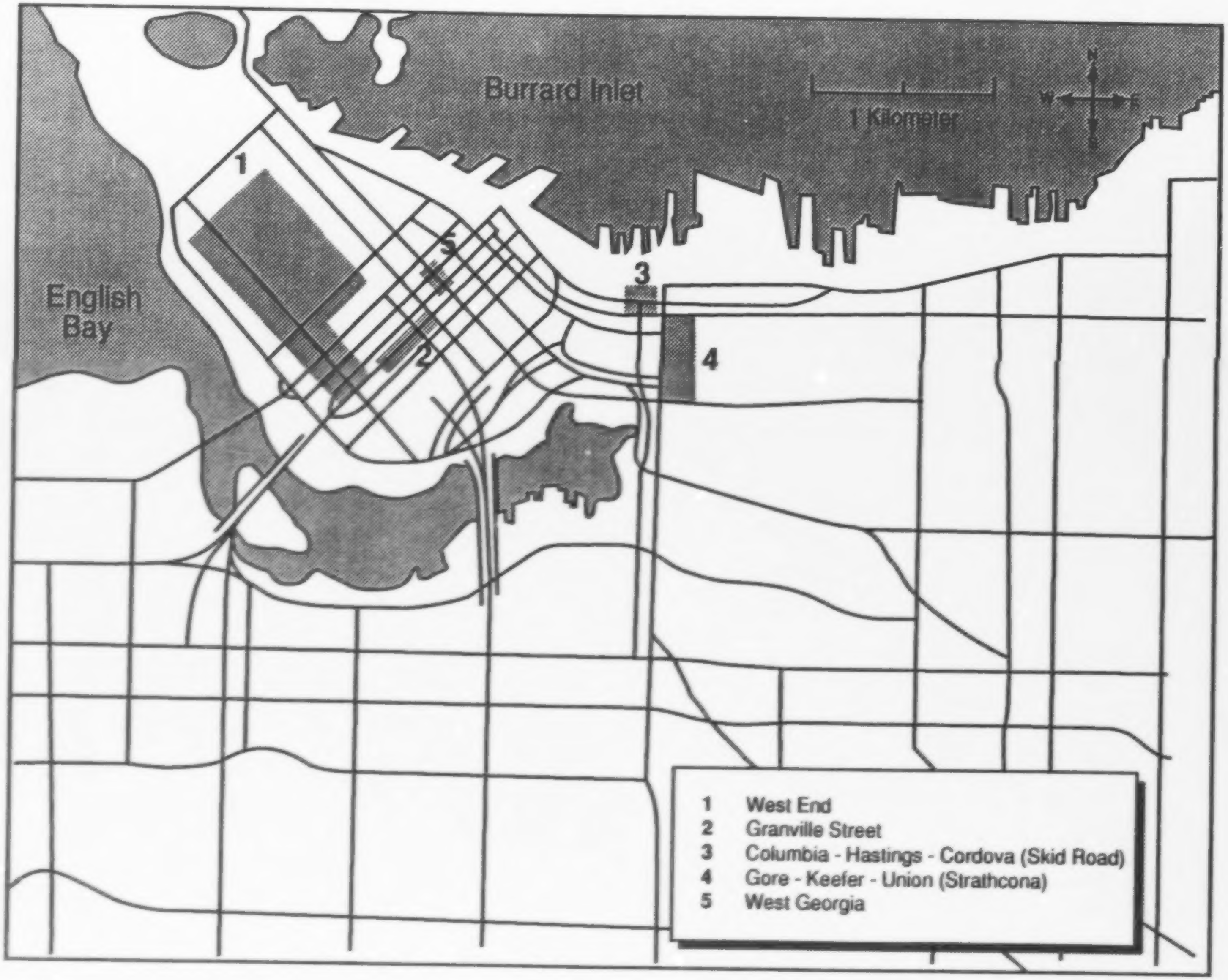

Burrard Inlet
1 Kilometer
N
W
E
S
English Bay
1
2
3
4
1 West End
2 Granville Street
3 Columbia - Hastings - Cordova (Skid Road)
4 Gore - Keefer - Union (Strathcona)

Map 4
Vancouver Prostitution Strolls 1976 -1981


Burrard Inlet
1 Kilometer
N
W
E
S
English Bay
1
2
3
4
5
1 West End
2 Granville Street
3 Columbia - Hastings - Cordova (Skid Road)
4 Gore - Keefer - Union (Strathcona)
5 West Georgia

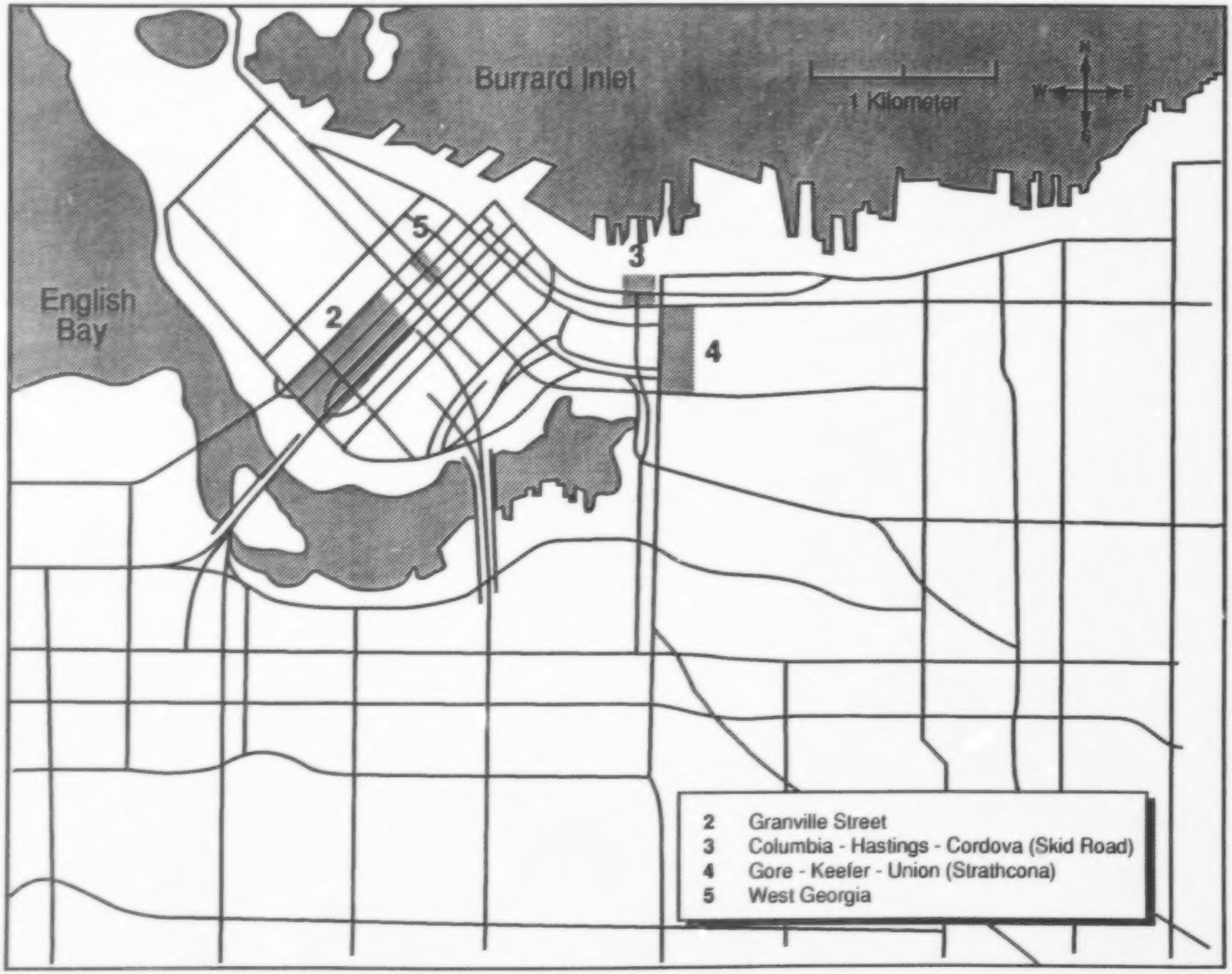
Map 5

Vancouver Prostitution Strolls 1981 - 1984

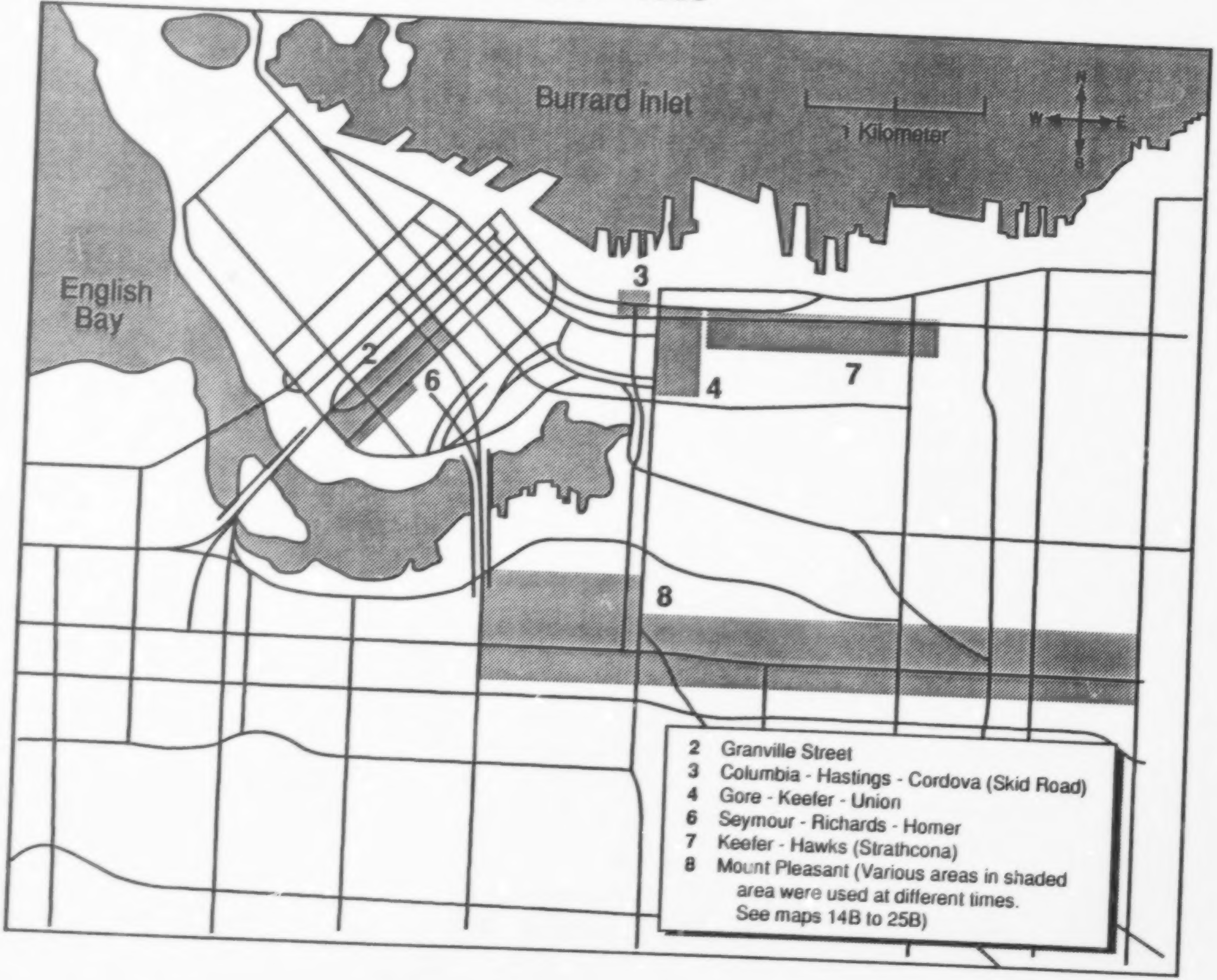

Burrard Inlet
English Bay
1 Kilometer
N
W
E
S
1
2
3
4
5
1 West End
2 Granville Street
3 Columbia - Hastings - Cordova (Skid Road)
4 Gore - Keefer - Union (Strathcona)
5 West Georgia

Map 6

Vancouver Prostitution Strolls After the Laying of the West End Nuisance Injunctions, July 1984

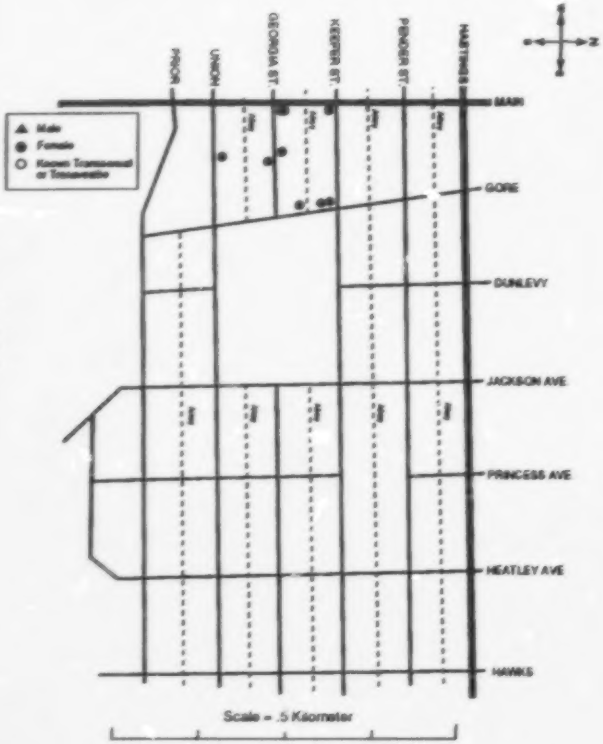

Burrard Inlet
English Bay
1 Kilometer
N
W
E
S
2
3
4
5
2 Granville Street
3 Columbia - Hastings - Cordova (Skid Road)
4 Gore - Keefer - Union (Strathcona)
5 West Georgia

Map 7
Vancouver Prostitution Strolls 1985 - 1988


Burrard Inlet
1 Kilometer
N
W
E
S
English Bay
2
3
4
6
7
8
2 Granville Street
3 Columbia - Hastings - Cordova (Skid Road)
4 Gore - Keefer - Union
6 Seymour - Richards - Homer
7 Keefer - Hawks (Strathcona)
8 Mount Pleasant (Various areas in shaded area were used at different times. See maps 14B to 25B)

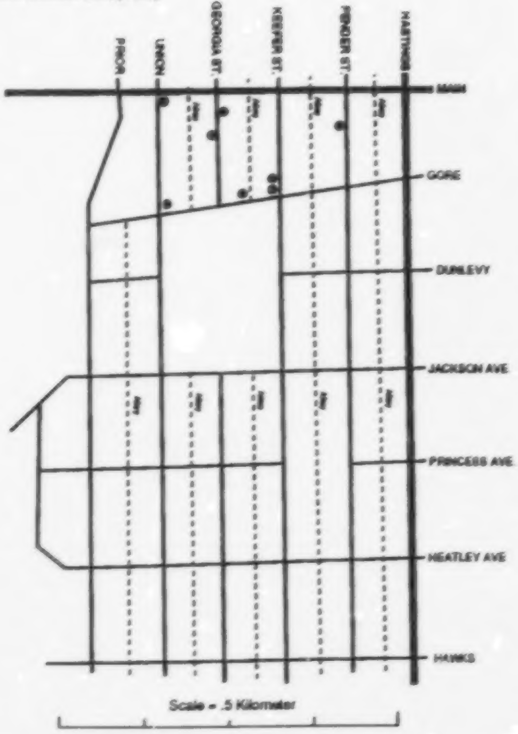
Map 8A
STRATHCONA

March 22nd 10:00 p.m.


▲ Male
● Female
○ Known Transsexual or Transvestite
PRIOR
UNION
GEORGIA ST.
KEEPER ST.
PENDER ST.
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE
PRINCESS AVE
HEATLEY AVE
HAWKS
Alley
Scale = .5 Kilometer
N

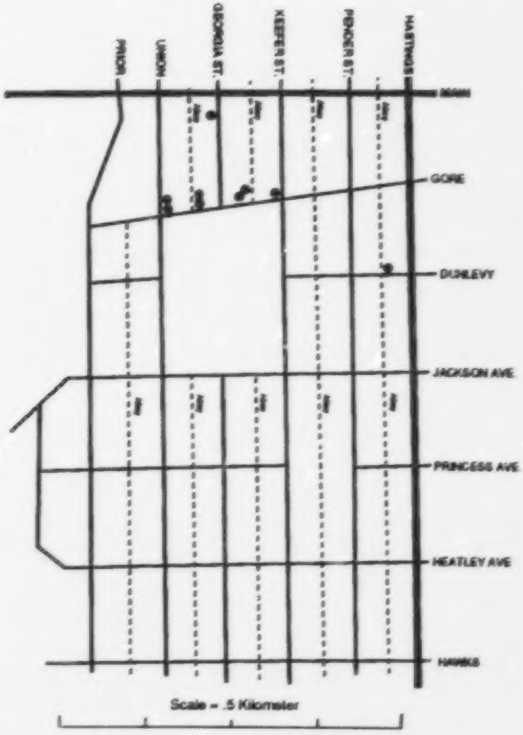
Map 8B
STRATHCONA

A Typical Night in May 1984
Time of count: 10:00 p.m. May 2nd
(Source: Lowman 1984, p. 337)


PRIOR
UNION
GEORGIA ST.
KEEFER ST.
PENDER ST.
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE
PRINCESS AVE
HEATLEY AVE
HAWKS
Alley
Scale = .5 Kilometer

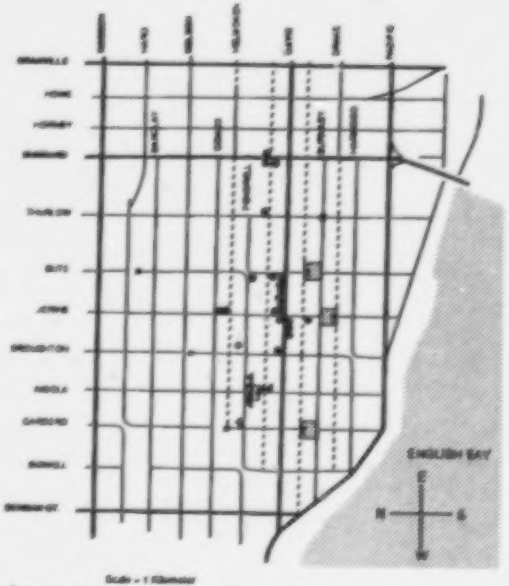
Map 8C
STRATHCONA

13th July, 10:30 p.m.
(Source: Lowman 1984, p. 346)


PRIOR
UNION
GEORGIA ST.
KEEFER ST.
PENDER ST.
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE
PRINCESS AVE
HEATLEY AVE
HAWKS
Alley
Scale = .5 Kilometer

Map 9A
WEST END

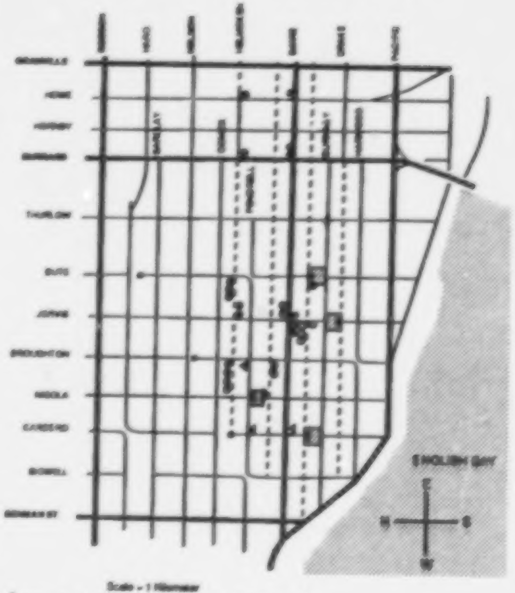
A Typical Night in March 1984
Time of Count: 1:45 a.m. 22nd March
(Source : Lowman, 1984, p. 316)


GRANVILLE
HOWE
HORNBY
BURRARD
THURLOW
BUTE
JERVIS
BROUGHTON
NICOLA
CARDERO
BIDWELL
DENMAN ST
ENGLISH BAY
E
N
S
W
Scale = 1 Kilometer

▲ Male (7)
● Female (21)
○ Known Transsexual or Transvestite (1)

Map 9B
WEST END

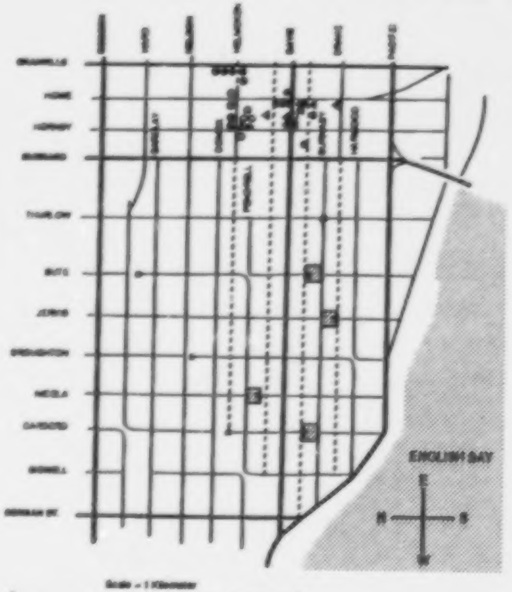
A Typical Night in May 1984
Time of count 1:45 a.m., 12th May
(Source: Lowman 1984, p. 317)


GRANVILLE
HOWE
HORNBY
BURRARD
THURLOW
BUTE
JERVIS
BROUGHTON
NICOLA
CARDERO
BIDWELL
DENMAN ST
ENGLISH BAY
E
N
S
W
Scale = 1 Kilometer

▲ Male (4)
● Female (22)
○ Known Transsexual or Transvestite (4)

Map 9C
WEST END

Effect of the Nuisance Injunction
Location of Prostitutes on 22nd June, 1984
at 2:15 a.m. (Source : Lowman, 1984, p. 325)

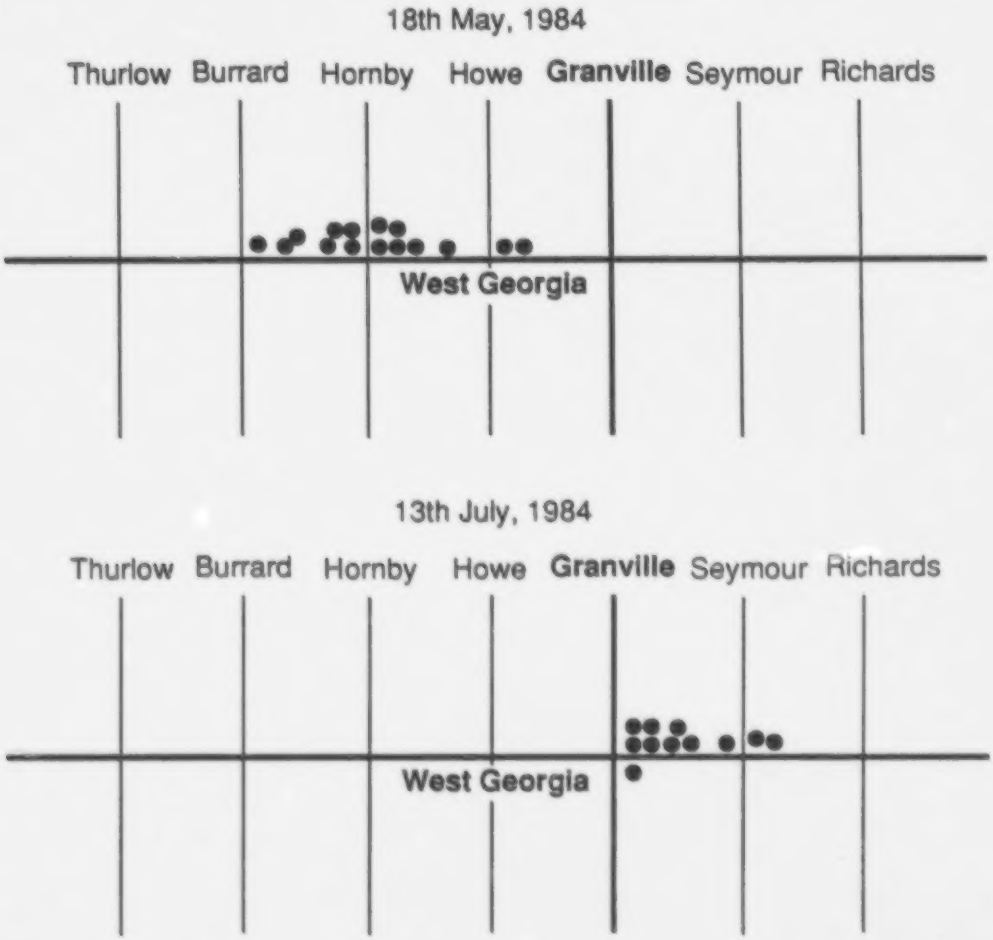

GRANVILLE
HOWE
HORNBY
BURRARD
THURLOW
BUTE
JERVIS
BROUGHTON
NICOLA
CARDERO
BIDWELL
DENMAN ST
ENGLISH BAY
E
N
S
W
Scale = 1 Kilometer

▲ Male (9)
● Female (14)
○ Known Transsexual or Transvestite (7)

Map 10

Effect of West End Injunction on Georgia Street Prostitutes.
(Source: Lowman 1984, pp. 332, 350)

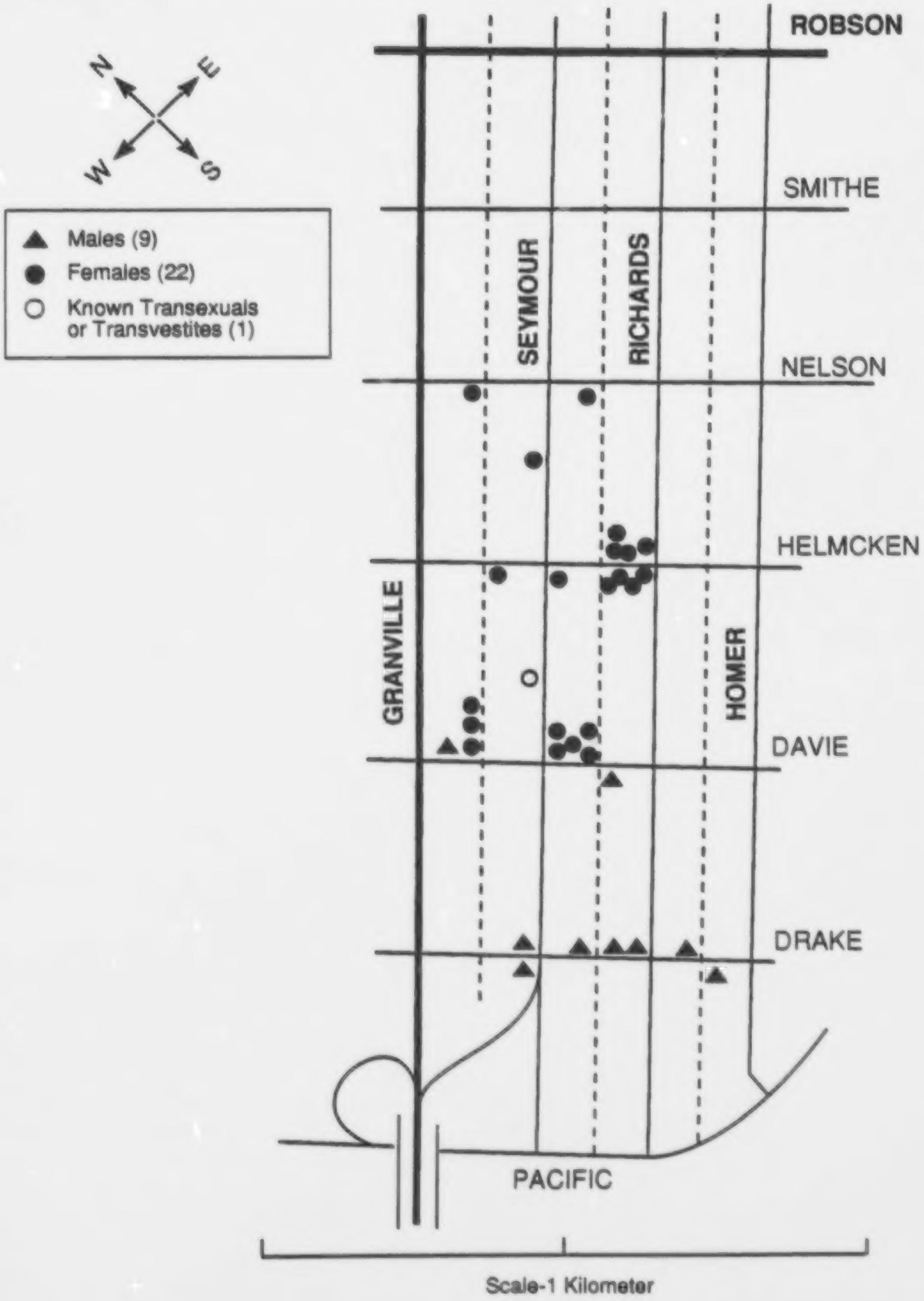
● Females/transsexuals /transvestites


18th May, 1984
Thurlow
Burrard
Hornby
Howe
Granville
Seymour
Richards
West Georgia
13th July, 1984
Thurlow
Burrard
Hornby
Howe
Granville
Seymour
Richards
West Georgia

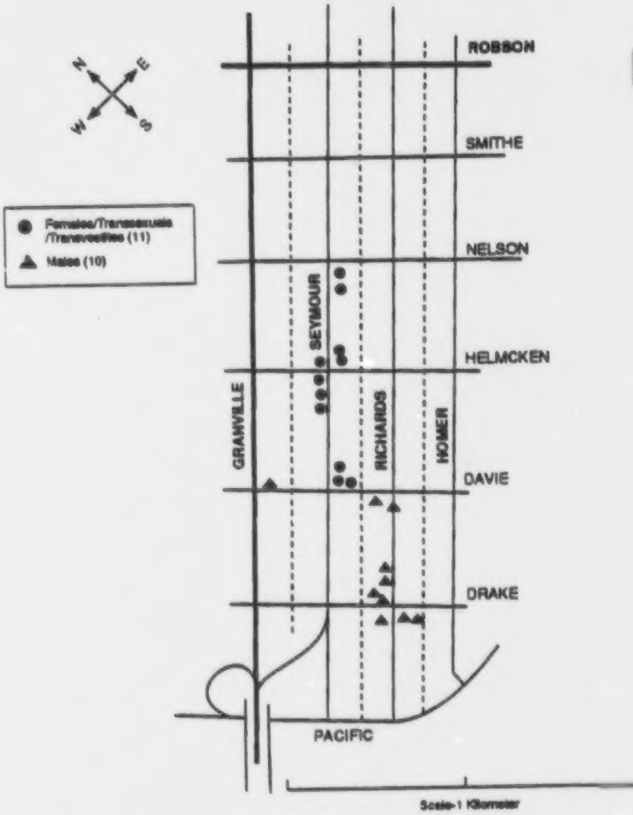
Map 11

RICHARDS-SEYMOUR

Effect of Redefining the Nuisance Injunction Boundary: Location of Prostitutes on 13th July, 1984 at 10:30 p.m.
(Source: Lowman, 1984, p. 348)

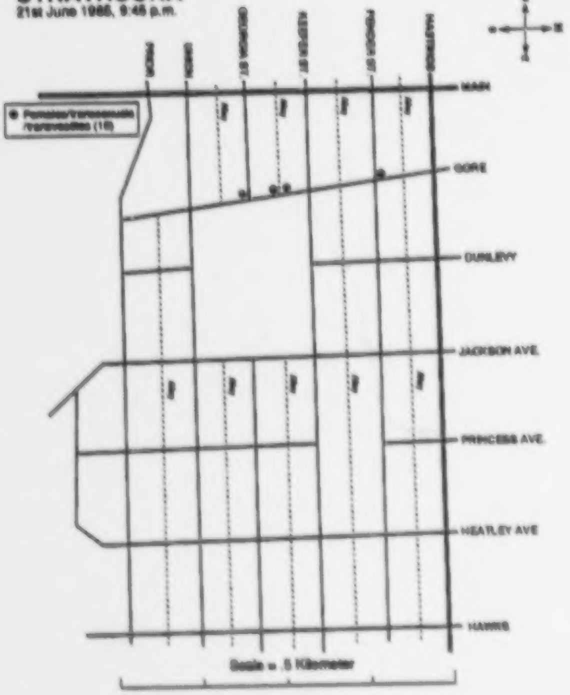

N
E
W
S
▲ Males (9)
● Females (22)
○ Known Transexuals or Transvestites (1)
ROBSON
SMITHE
NELSON
HELMCKEN
DAVIE
DRAKE
PACIFIC
GRANVILLE
SEYMOUR
RICHARDS
HOMER
Scale-1 Kilometer

Map 12A
RICHARDS-SEYMOUR
21st June 1985, 10:00 p.m.



N
E
S
W
● Females/Transsexuals/Transvestites (11)
▲ Males (10)
ROBSON
SMITHE
NELSON
HELMCKEN
DAVIE
DRAKE
PACIFIC
GRANVILLE
SEYMOUR
RICHARDS
HOMER
Scale-1 Kilometer

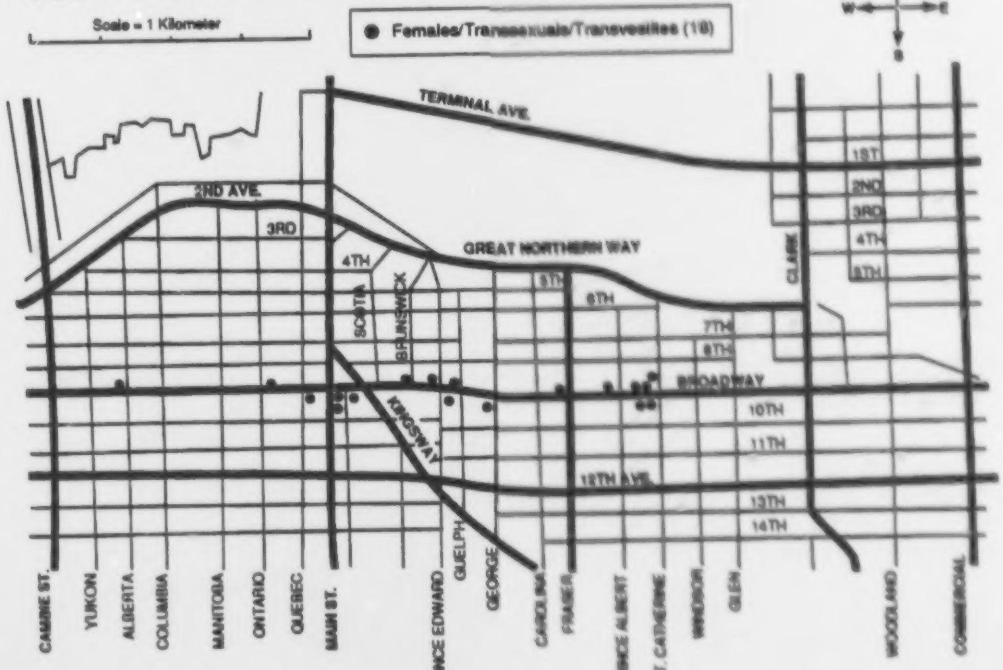
Map 12C
STRATHCONA
21st June 1985, 9:45 p.m.



N
W
E
S
● Females/Transsexuals/Transvestites (18)
PRIOR
UNION
GEORGIA ST
KEEFER ST
PENDER ST
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE.
PRINCESS AVE.
HEATLEY AVE
HAWKS
Scale = .5 Kilometer

Map 12B
MOUNT PLEASANT

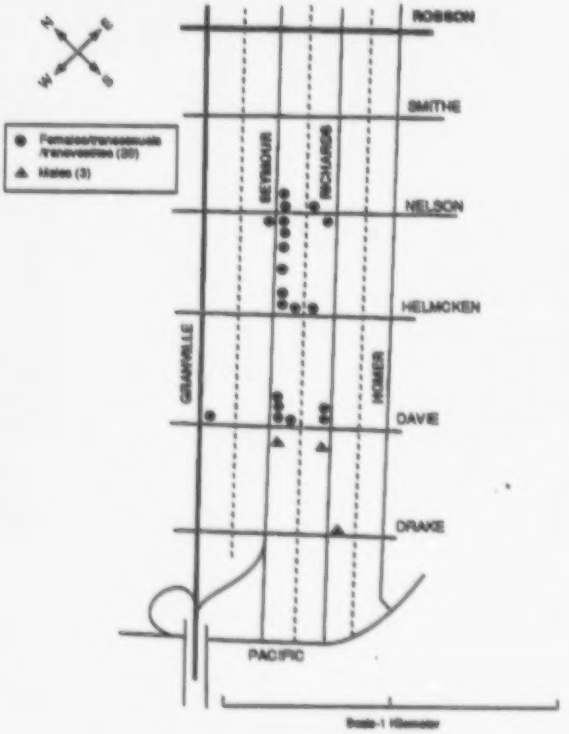
21st June 1985, 10:30 p.m.



Scale = 1 Kilometer
● Females/Transsexuals/Transvestites (18)
N
W
E
S
TERMINAL AVE.
2ND AVE.
3RD
4TH
GREAT NORTHERN WAY
5TH
6TH
7TH
8TH
BROADWAY
10TH
11TH
12TH AVE.
13TH
14TH
1ST
2ND
3RD
4TH
5TH
CLARK
SCOTIA
BRUNSWICK
KINGSWAY
CAMBIE ST.
YUKON
ALBERTA
COLUMBIA
MANITOBA
ONTARIO
QUEBEC
MAIN ST.
PRINCE EDWARD
GUELPH
GEORGE
CAROLINA
FRASER
PRINCE ALBERT
ST. CATHERINE
WINDSOR
GLEN
WOODLAND
COMMERCIAL

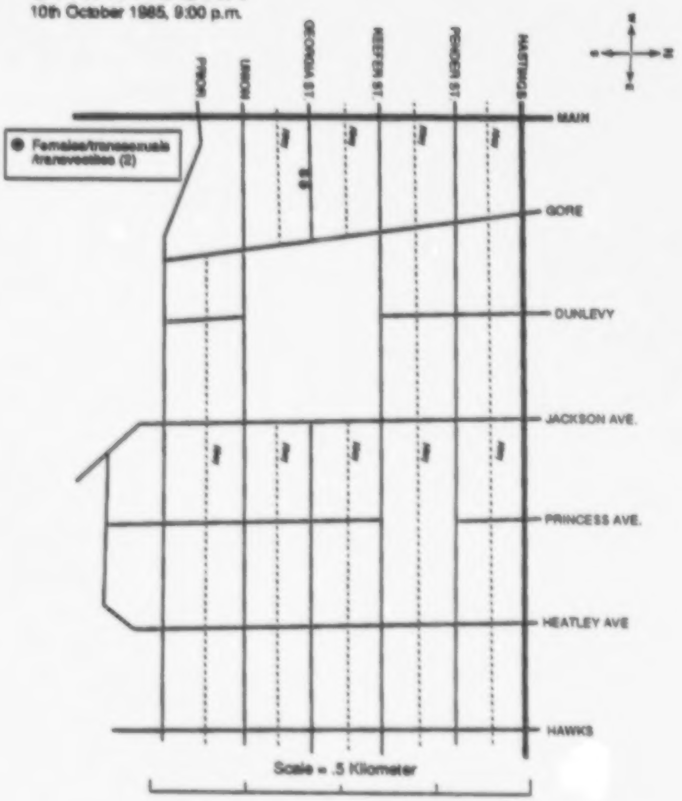
Map 13 A
RICHARDS-SEYMOUR

10th October 1985 10:00 p.m.


N
E
W
S
● Females/transsexuals /transvestites (20)
▲ Males (3)
ROBSON
SMITHE
NELSON
HELMCKEN
DAVIE
DRAKE
PACIFIC
GRANVILLE
SEYMOUR
RICHARDS
HOMER
Scale-1 Kilometer

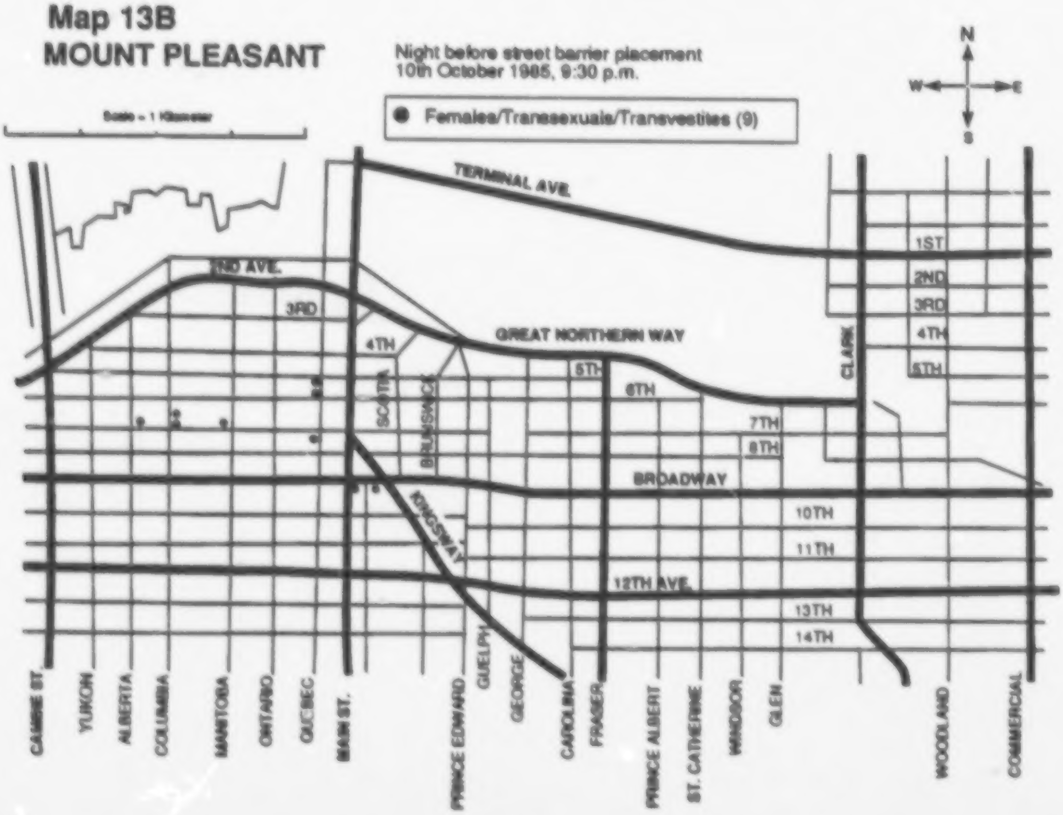
Map 13C
STRATHCONA

10th October 1985, 9:00 p.m.

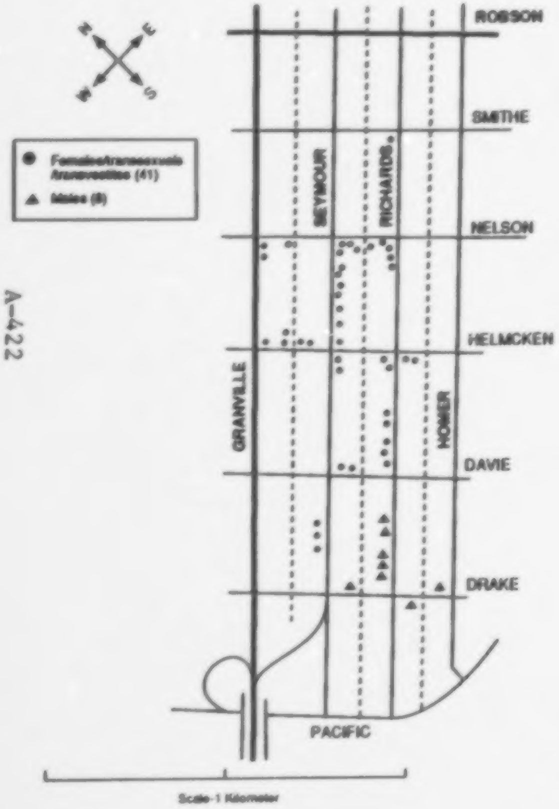

N
E
W
S
● Females/transsexuals /transvestites (2)
PRIOR
UNION
GEORGIA ST
KEEFER ST
PENDER ST
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE.
PRINCESS AVE.
HEATLEY AVE
HAWKS
Scale = .5 Kilometer

Map 13B
MOUNT PLEASANT

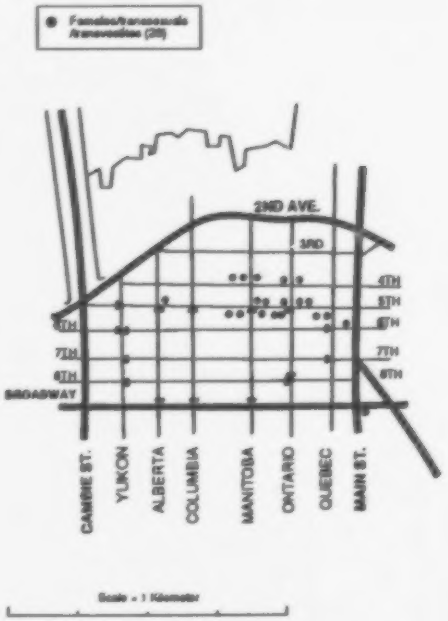
Night before street barrier placement
10th October 1985, 9:30 p.m.


N
W
E
S
Scale = 1 Kilometer
● Females/Transsexuals/Transvestites (9)
TERMINAL AVE.
2ND AVE.
3RD
4TH
GREAT NORTHERN WAY
5TH
6TH
7TH
8TH
BROADWAY
10TH
11TH
12TH AVE.
13TH
14TH
1ST
2ND
3RD
4TH
5TH
CLARK
SCOTIA
BRUNSWICK
KINGSWAY
CAMBIE ST.
YUKON
ALBERTA
COLUMBIA
MANITOBA
ONTARIO
QUEBEC
MAIN ST.
PRINCE EDWARD
GUELPH
GEORGE
CAROLINA
FRASER
PRINCE ALBERT
ST. CATHERINE
WINDSOR
GLEN
WOODLAND
COMMERCIAL

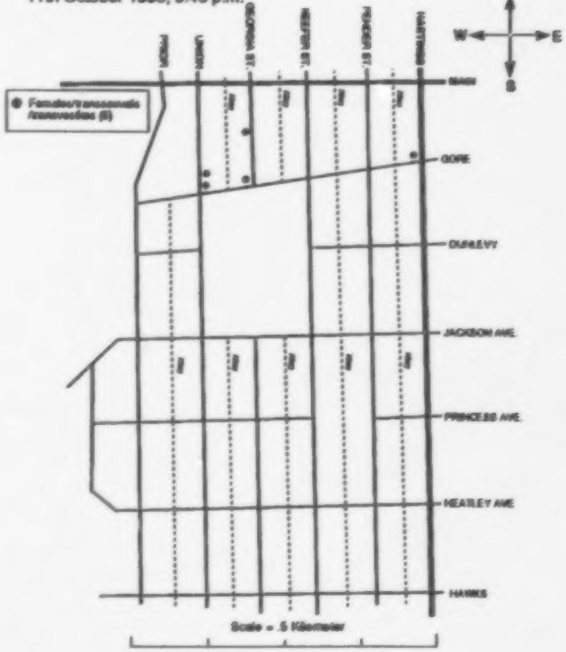
Map 14A
RICHARDS-SEYMOUR
11th October 1985, 10:30 p.m.


N
E
S
W
● Females/transsexuals /transvestites (41)
▲ Males (8)
ROBSON
SMITHE
NELSON
HELMCKEN
DAVIE
DRAKE
GRANVILLE
SEYMOUR
RICHARDS
HOMER
PACIFIC
Scale-1 Kilometer

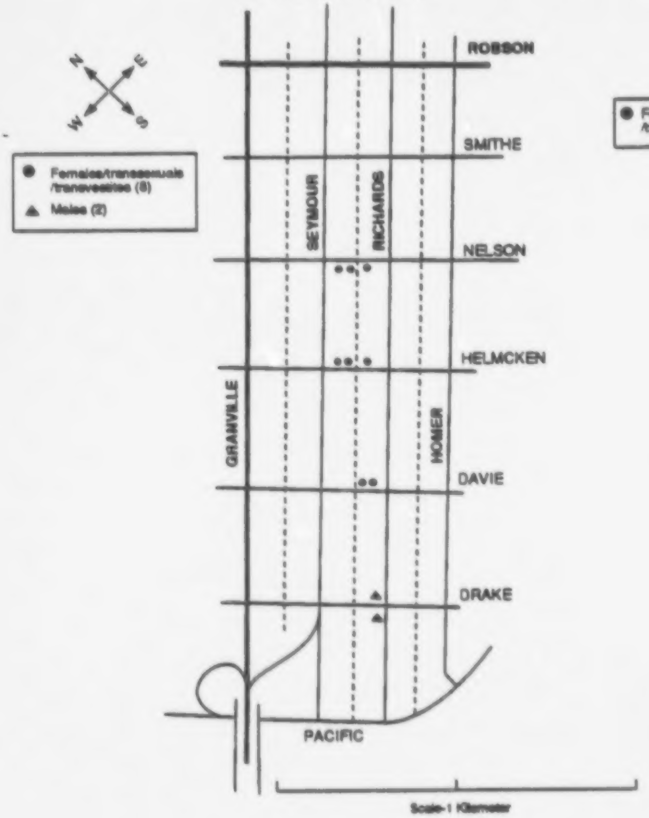
Map 14B
Mt. Pleasant NO-GO Area
October, November 1985
11th October, 10:45 p.m., Night after barrier placement


● Females/transsexuals /transvestites (28)
2ND AVE.
3RD
4TH
5TH
6TH
7TH
8TH
BROADWAY
CAMBIE ST.
YUKON
ALBERTA
COLUMBIA
MANITOBA
ONTARIO
QUEBEC
MAIN ST.
Scale = 1 Kilometer

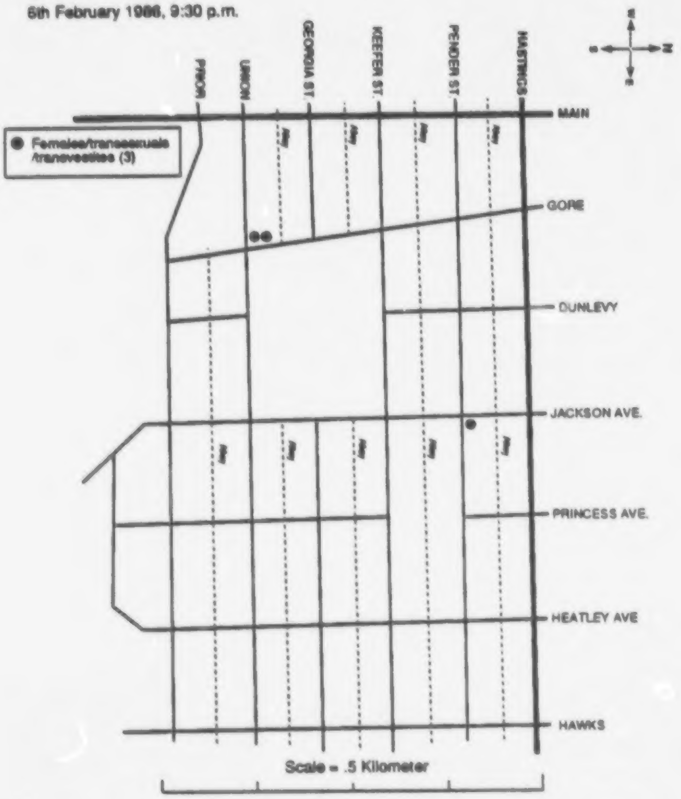
Map 14C
STRATHCONA
11th October 1985, 9:45 p.m.


N
W
E
S
● Females/transsexuals /transvestites (8)
PRIOR
UNION
GEORGIA ST.
KEEFER ST.
PENDER ST.
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE
PRINCESS AVE
HEATLEY AVE
HAWKS
Scale = .5 Kilometer

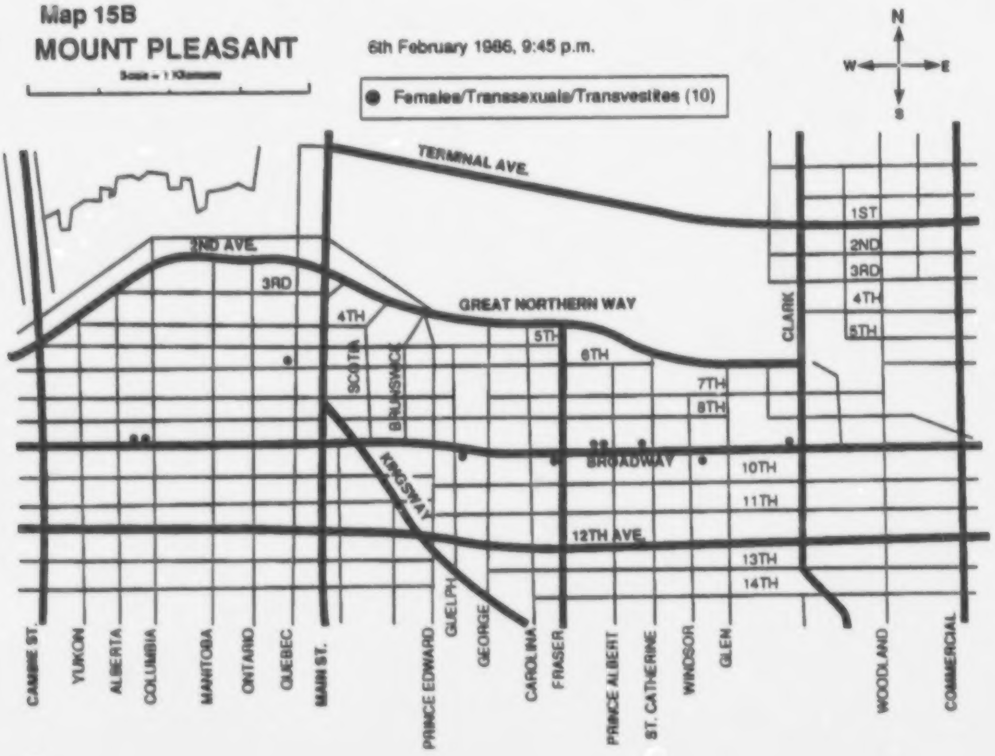
Map 15A
RICHARDS-SEYMOUR
6th February 1986, 9:00 p.m.


N
E
W
S
● Females/transsexuals/transvestites (8)
▲ Males (2)
ROBSON
SMITHE
NELSON
HELMCKEN
DAVIE
DRAKE
PACIFIC
GRANVILLE
SEYMOUR
RICHARDS
HOMER
Scale-1 Kilometer

Map 15C
STRATHCONA
6th February 1986, 9:30 p.m.

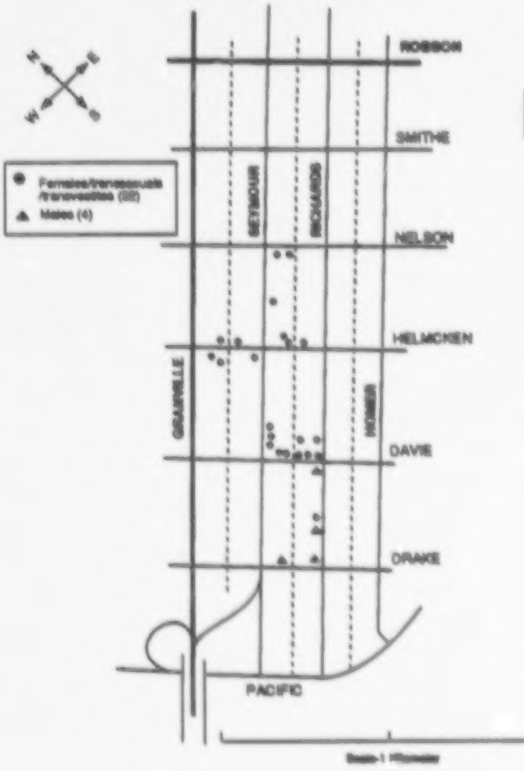

● Females/transsexuals/transvestites (3)
PRIOR
UNION
GEORGIA ST.
KEEFER ST.
PENDER ST.
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE.
PRINCESS AVE.
HEATLEY AVE
HAWKS
Scale = .5 Kilometer

Map 15B
MOUNT PLEASANT
6th February 1986, 9:45 p.m.


Scale = 1 Kilometer
● Females/Transsexuals/Transvestites (10)
N
W
E
S
TERMINAL AVE.
2ND AVE.
3RD
4TH
GREAT NORTHERN WAY
5TH
6TH
7TH
8TH
BROADWAY
10TH
11TH
12TH AVE.
13TH
14TH
1ST
2ND
3RD
4TH
5TH
CLARK
KINGSWAY
SCOTIA
BRUNSWICK
CAMBIE ST.
YUKON
ALBERTA
COLUMBIA
MANITOBA
ONTARIO
QUEBEC
MAIN ST.
PRINCE EDWARD
GUELPH
GEORGE
CAROLINA
FRASER
PRINCE ALBERT
ST. CATHERINE
WINDSOR
GLEN
WOODLAND
COMMERCIAL

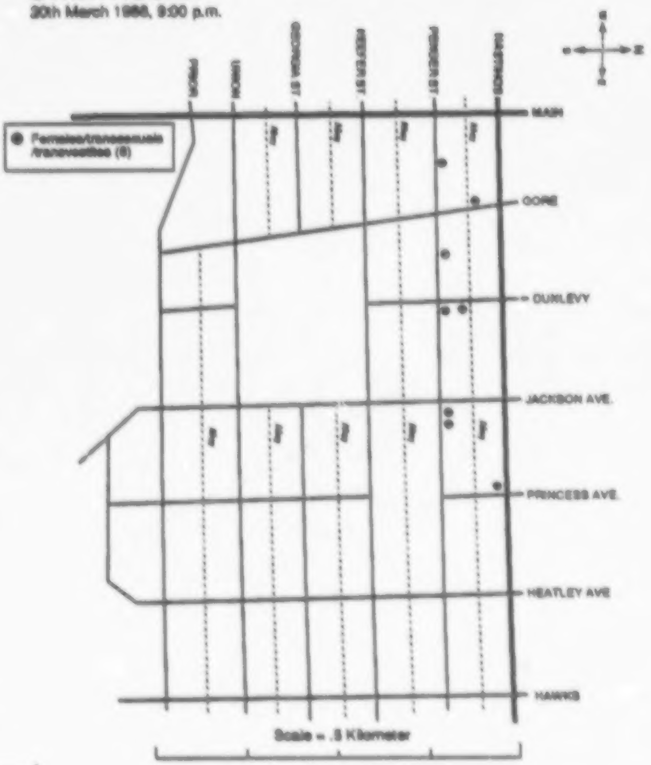
Map 16A
RICHARDS-SEYMOUR

20th March 1988, 9:30 p.m.


N
E
S
W
Females/transsexuals /transvestites (32)
Males (4)
ROBSON
SMITHE
NELSON
HELMCKEN
DAVIE
DRAKE
PACIFIC
GRANVILLE
SEYMOUR
RICHARDS
HOMER
Scale-1 Kilometer

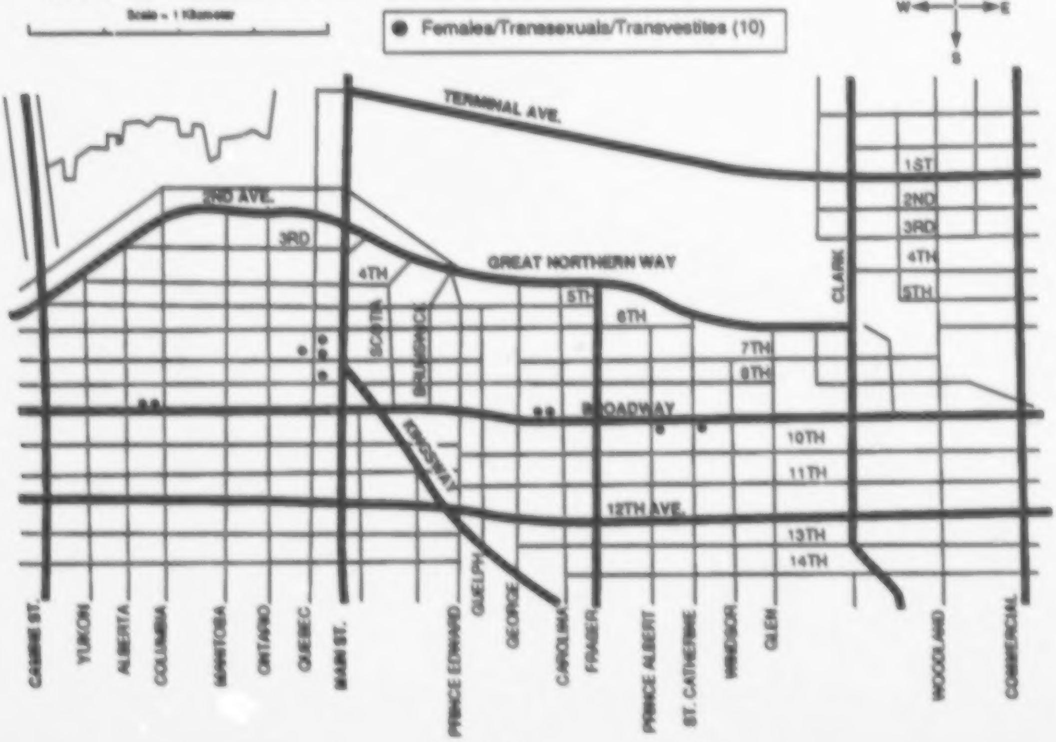
Map 16C
STRATHCONA

20th March 1988, 9:00 p.m.


N
E
S
W
Females/transsexuals /transvestites (8)
PRIOR
UNION
GEORGIA ST
KEEFER ST
PENDER ST
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE.
PRINCESS AVE.
HEATLEY AVE
HAWKS
Scale = .5 Kilometer

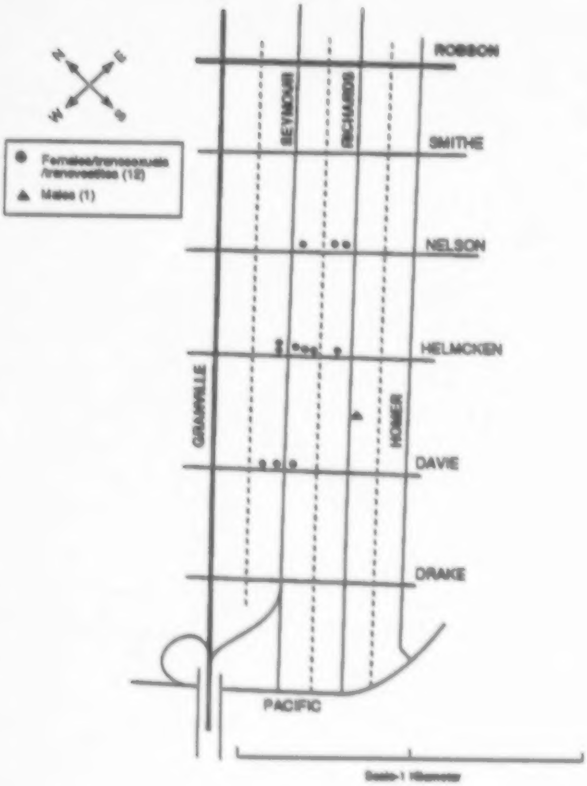
Map 16B
MOUNT PLEASANT

20th March 1988, 10:00 p.m.


Scale = 1 Kilometer
Females/Transsexuals/Transvestites (10)
N
W
E
S
TERMINAL AVE.
1ST
2ND AVE.
2ND
3RD
4TH
GREAT NORTHERN WAY
5TH
6TH
7TH
8TH
BROADWAY
10TH
11TH
12TH AVE.
13TH
14TH
CLARK
SCOTIA
BRUNSWICK
KINGSWAY
CAMBIE ST.
YUKON
ALBERTA
COLUMBIA
MANITOBA
ONTARIO
QUEBEC
MAIN ST.
PRINCE EDWARD
GUELPH
GEORGE
CAROLINA
FRASER
PRINCE ALBERT
ST. CATHERINE
WINDSOR
GLEN
WOODLAND
COMMERCIAL

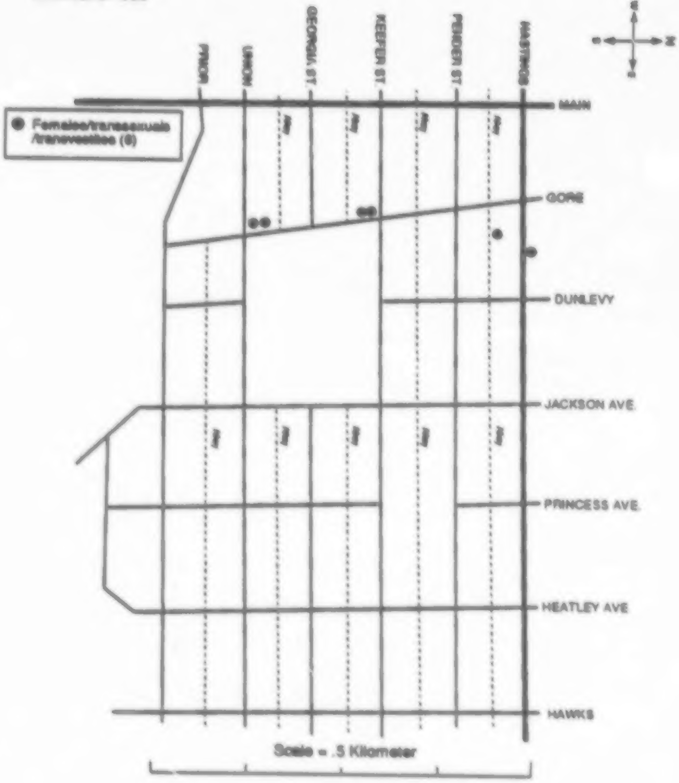
Map 17A
RICHARDS-SEYMOUR

26th June 1986, 10:00 p.m.


N
E
W
S
● Females/transsexuals /transvestites (12)
▲ Males (1)
ROBSON
SMITHE
NELSON
HELMCKEN
DAVIE
DRAKE
PACIFIC
GRANVILLE
SEYMOUR
RICHARDS
HOMER
Scale-1 Kilometer

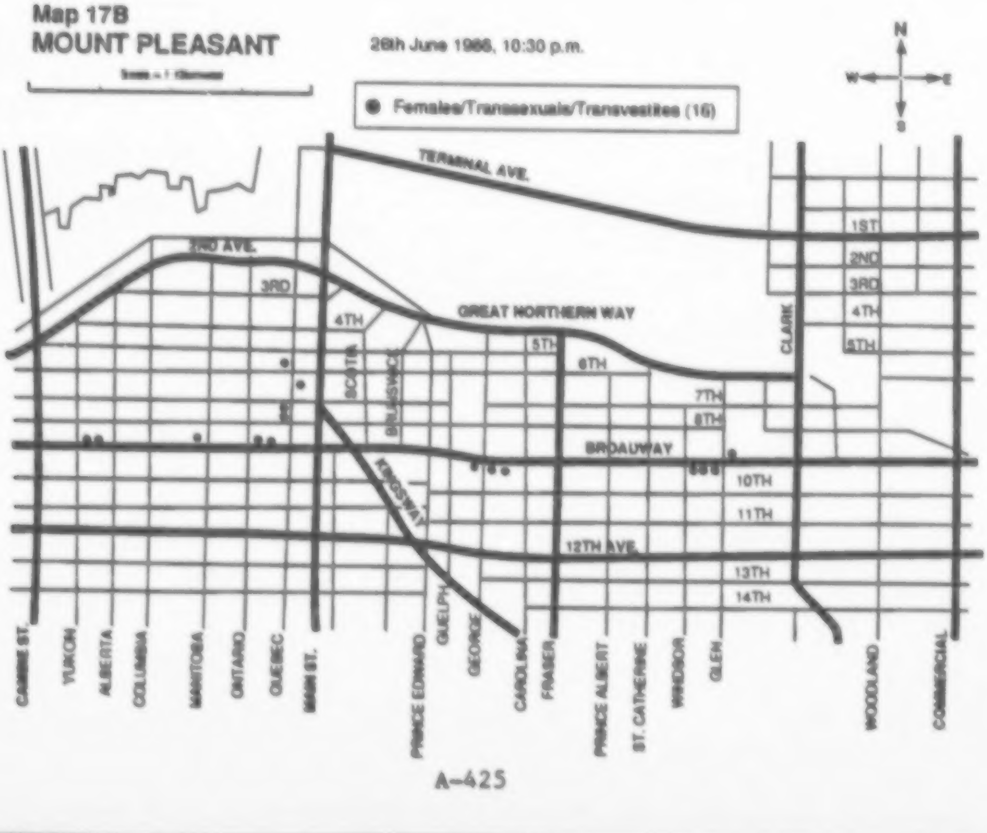
Map 17C
STRATHCONA

26th June 1986


N
S
E
W
● Females/transsexuals /transvestites (6)
PRIOR
UNION
GEORGIA ST
KEEFER ST
PENDER ST
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE
PRINCESS AVE
HEATLEY AVE
HAWKS
lane
Scale = .5 Kilometer

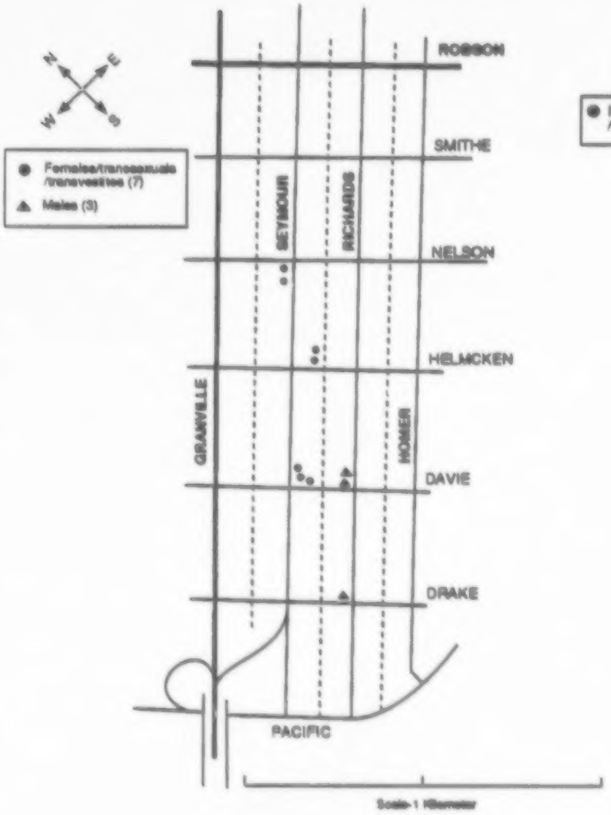
Map 17B
MOUNT PLEASANT

26th June 1986, 10:30 p.m.


Scale = 1 Kilometer
● Females/Transsexuals/Transvestites (16)
N
W
E
S
TERMINAL AVE.
2ND AVE.
3RD
4TH
GREAT NORTHERN WAY
5TH
6TH
7TH
8TH
BROADWAY
10TH
11TH
12TH AVE.
13TH
14TH
1ST
2ND
3RD
4TH
5TH
CLARK
SCOTIA
BRUNSWICK
KINGSWAY
CAMBIE ST.
YUKON
ALBERTA
COLUMBIA
MANITOBA
ONTARIO
QUEBEC
MAIN ST.
PRINCE EDWARD
GUELPH
GEORGE
CAROLINA
FRASER
PRINCE ALBERT
ST. CATHERINE
WINDSOR
GLEN
WOODLAND
COMMERCIAL

Map 18A
RICHARDS-SEYMOUR

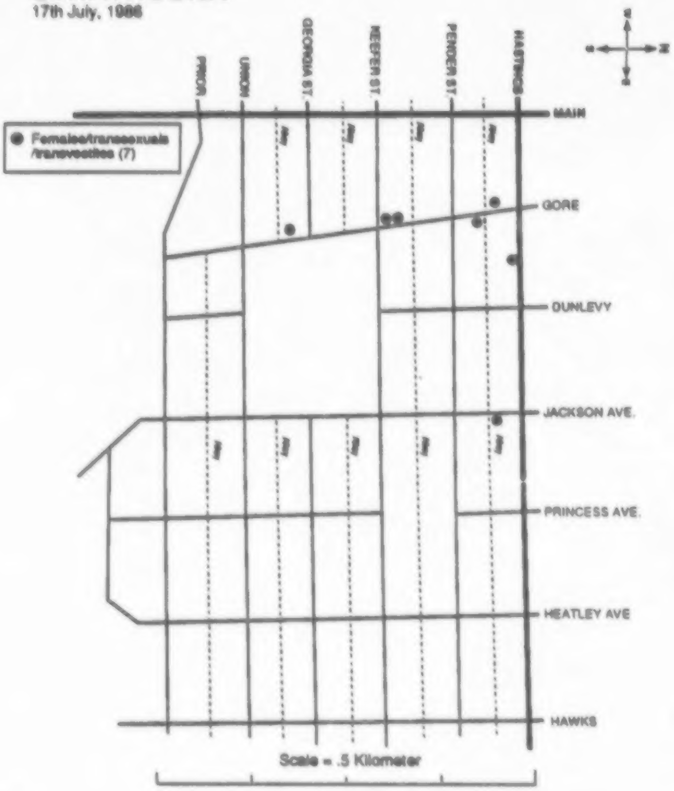
17th July, 1986



N
E
W
S
● Females/transsexuals/transvestites (7)
▲ Males (3)
ROBSON
SMITHE
NELSON
HELMCKEN
DAVIE
DRAKE
PACIFIC
GRANVILLE
SEYMOUR
RICHARDS
HOMER
Scale-1 Kilometer

Map 18C
STRATHCONA

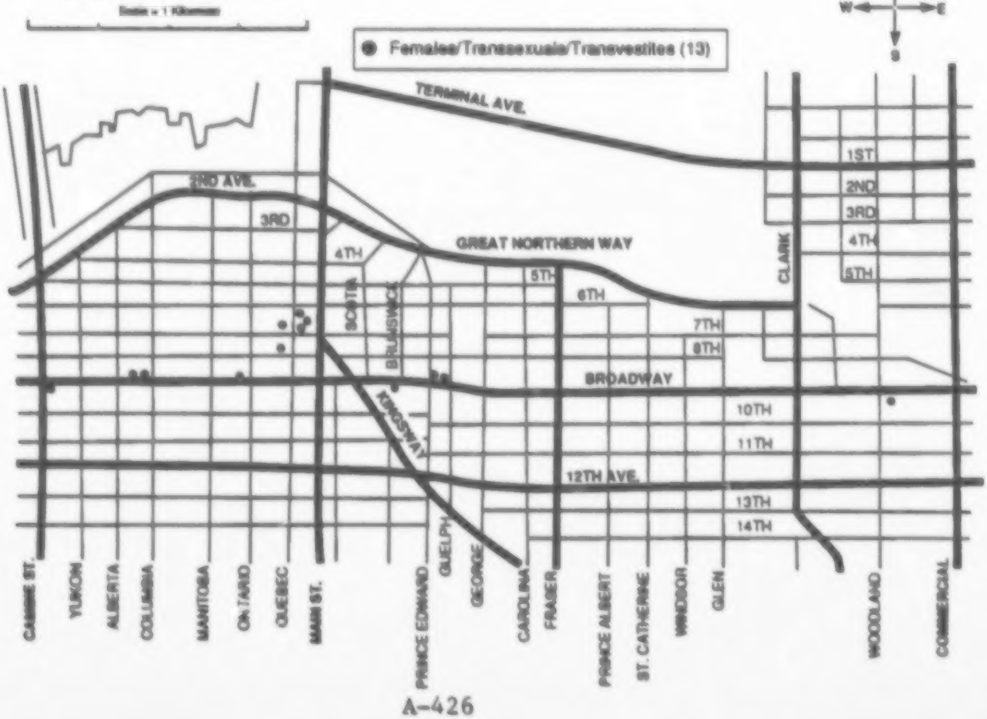
17th July, 1986



● Females/transsexuals/transvestites (7)
PRIOR
UNION
GEORGIA ST
KEEFER ST
PENDER ST
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE.
PRINCESS AVE.
HEATLEY AVE
HAWKS
Scale = .5 Kilometer

Map 18B
MOUNT PLEASANT

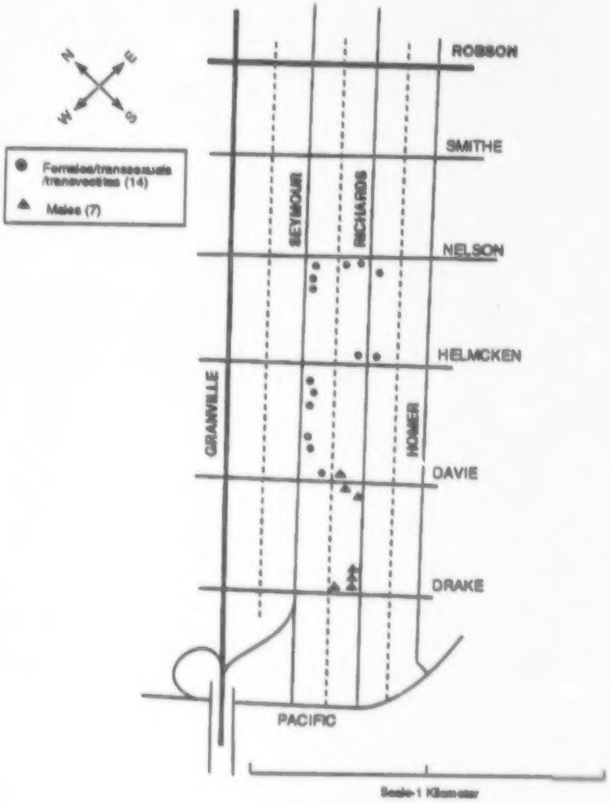
17th July, 1986



Scale = 1 Kilometer
N
W
E
S
● Females/Transsexuals/Transvestites (13)
TERMINAL AVE.
1ST
2ND
3RD
4TH
5TH
2ND AVE.
3RD
4TH
GREAT NORTHERN WAY
5TH
6TH
7TH
8TH
CLARK
SCOTIA
BRUNSWICK
BROADWAY
KINGSWAY
10TH
11TH
12TH AVE.
13TH
14TH
CAMBIE ST.
YUKON
ALBERTA
COLUMBIA
MANITOBA
ONTARIO
QUEBEC
MAIN ST.
PRINCE EDWARD
GUELPH
GEORGE
CAROLINA
FRASER
PRINCE ALBERT
ST. CATHERINE
WINDSOR
GLEN
WOODLAND
COMMERCIAL

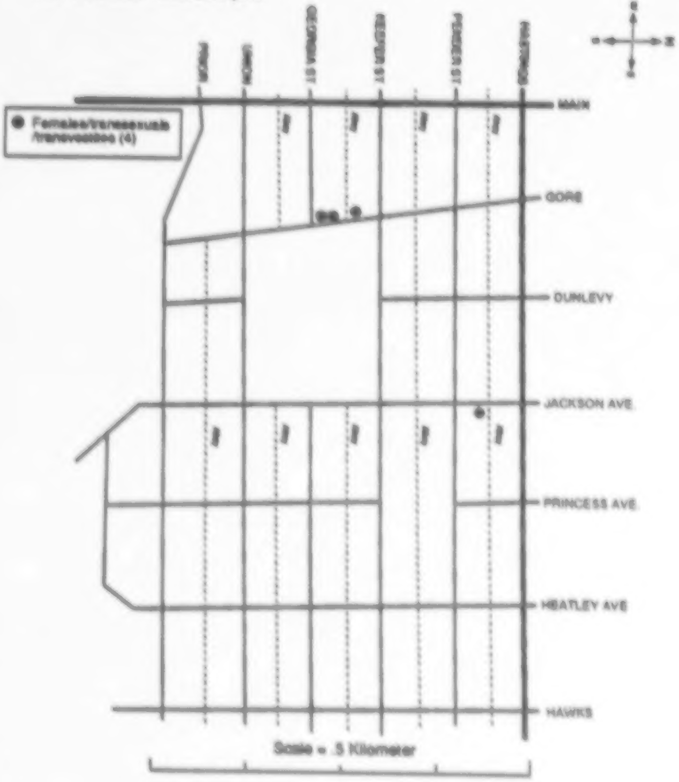
Map 19A
RICHARDS-SEYMOUR

10th December 1986, 10:15 p.m.


N
E
W
S
● Females/transsexuals/transvestites (14)
▲ Males (7)
ROBSON
SMITHE
NELSON
HELMCKEN
DAVIE
DRAKE
PACIFIC
GRANVILLE
SEYMOUR
RICHARDS
HOMER
Scale-1 Kilometer

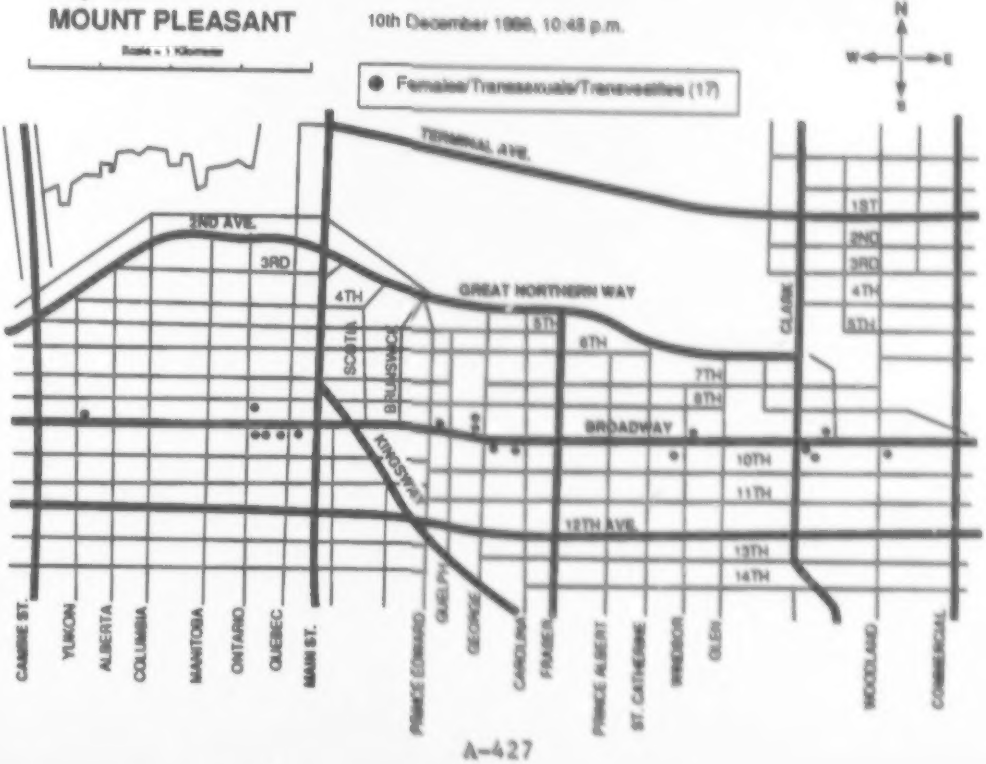
Map 19C
STRATHCONA

10th December 1986, 9:45 p.m.


N
E
W
S
● Females/transsexuals/transvestites (4)
PRIOR
UNION
GEORGIA ST
KEEFER ST
PENDER ST
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE.
PRINCESS AVE.
HEATLEY AVE
HAWKS
Scale = .5 Kilometer

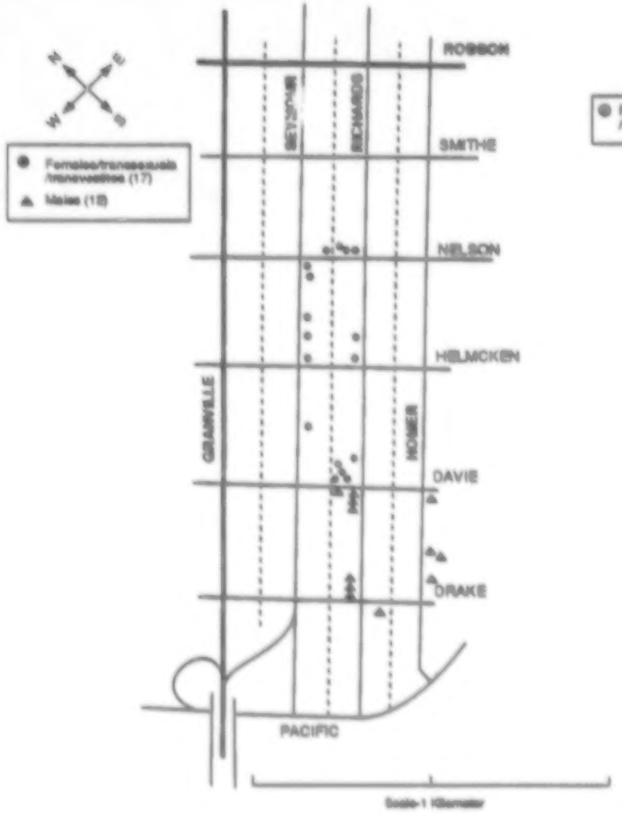
Map 19B
MOUNT PLEASANT

10th December 1986, 10:45 p.m.


Scale = 1 Kilometer
N
W
E
S
● Females/Transsexuals/Transvestites (17)
TERMINAL AVE.
2ND AVE.
3RD
4TH
GREAT NORTHERN WAY
5TH
6TH
7TH
8TH
BROADWAY
10TH
11TH
12TH AVE.
13TH
14TH
1ST
2ND
3RD
4TH
5TH
CLARK
SCOTIA
BRUNSWICK
KINGSWAY
CAMBIE ST.
YUKON
ALBERTA
COLUMBIA
MANITOBA
ONTARIO
QUEBEC
MAIN ST.
PRINCE EDWARD
GUELPH
GEORGE
CAROLINA
FRASER
PRINCE ALBERT
ST. CATHERINE
WINDSOR
GLEN
WOODLAND
COMMERCIAL

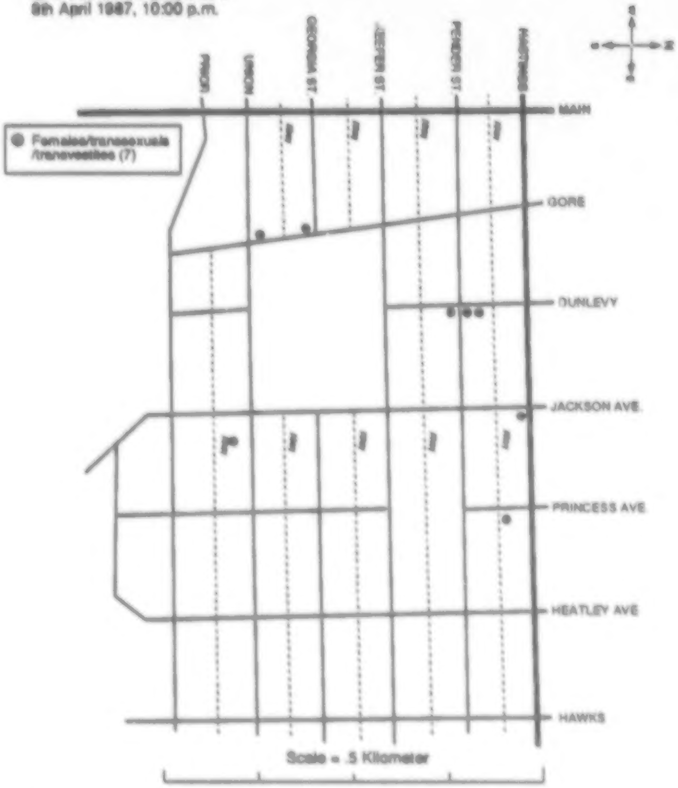
Map 20A
RICHARDS-SEYMOUR

8th April 1987, 9:45 p.m.


N
E
W
S
● Females/transsexuals/transvestites (17)
▲ Males (12)
ROBSON
SMITHE
NELSON
HELMCKEN
DAVIE
DRAKE
PACIFIC
SEYMOUR
RICHARDS
GRANVILLE
HOMER
Scale-1 Kilometer

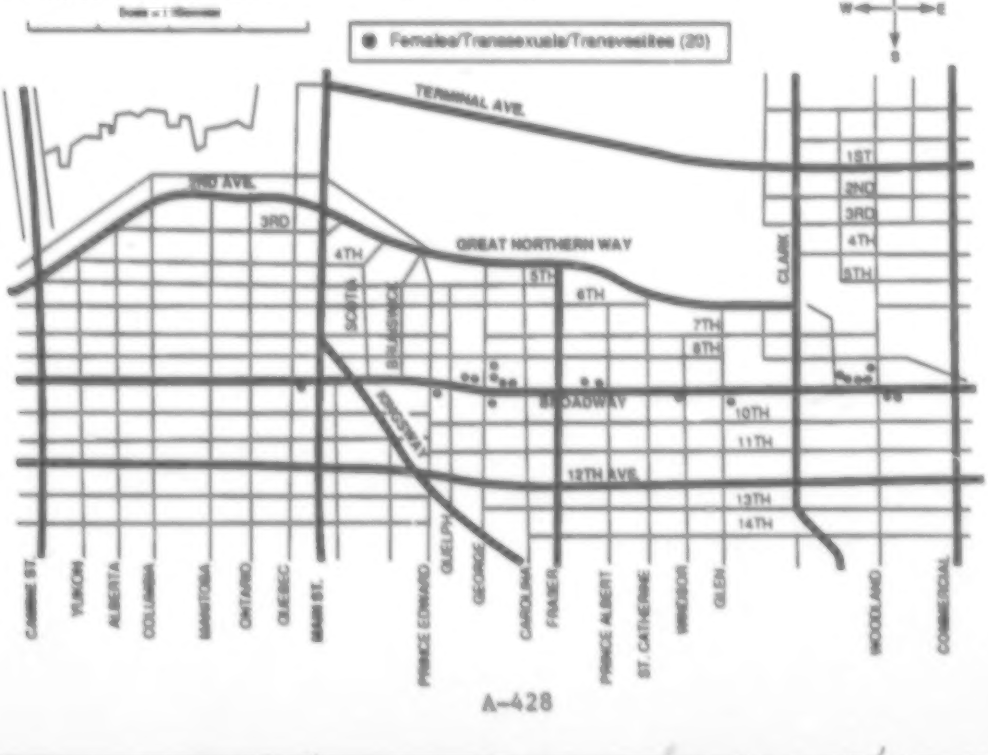
Map 20C
STRATHCONA

8th April 1987, 10:00 p.m.

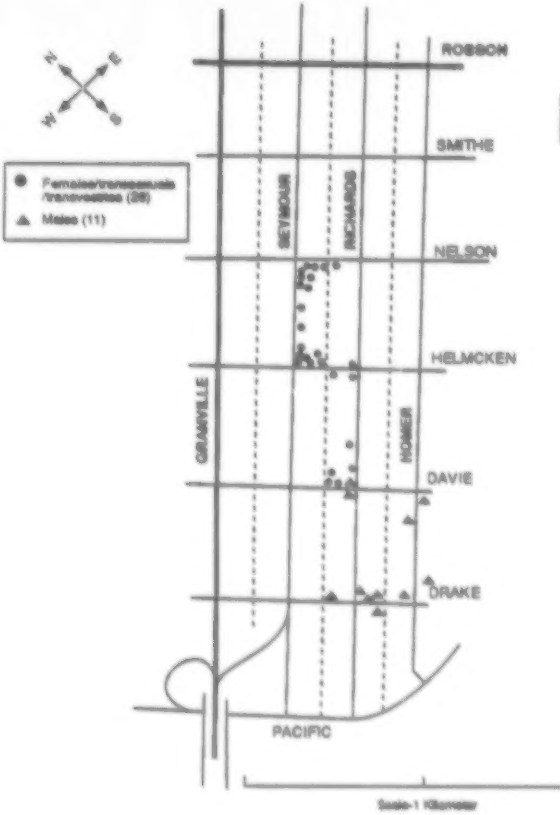

PRIOR
UNION
GEORGIA ST
KEEFER ST
PENDER ST
HASTINGS
● Females/transsexuals/transvestites (7)
MAIN
GORE
DUNLEVY
JACKSON AVE.
PRINCESS AVE
HEATLEY AVE
HAWKS
Scale = .5 Kilometer

Map 20 B
MOUNT PLEASANT

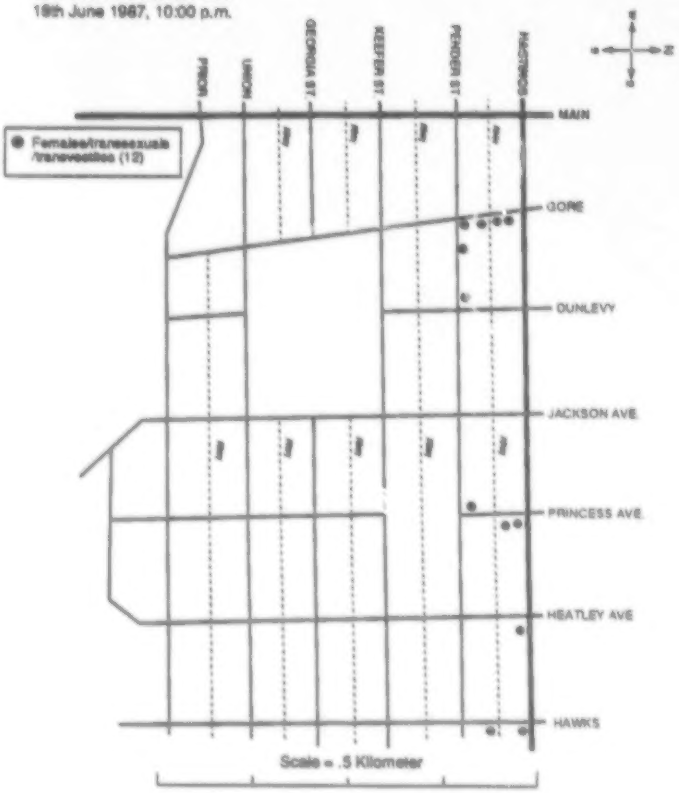
8th April, 1987 10:30 p.m.


Scale = 1 Kilometer
● Females/Transsexuals/Transvestites (20)
N
W
E
S
TERMINAL AVE.
1ST
2ND
3RD
4TH
5TH
2ND AVE.
3RD
4TH
GREAT NORTHERN WAY
5TH
6TH
7TH
8TH
CLARK
SCOTIA
BRUNSWICK
KINGSWAY
BROADWAY
10TH
11TH
12TH AVE.
13TH
14TH
CAMBIE ST
YUKON
ALBERTA
COLUMBIA
MANITOBA
ONTARIO
QUEBEC
MAIN ST.
PRINCE EDWARD
GUELPH
GEORGE
CAROLINA
FRASER
PRINCE ALBERT
ST. CATHERINE
WINDSOR
GLEN
WOODLAND
COMMERCIAL

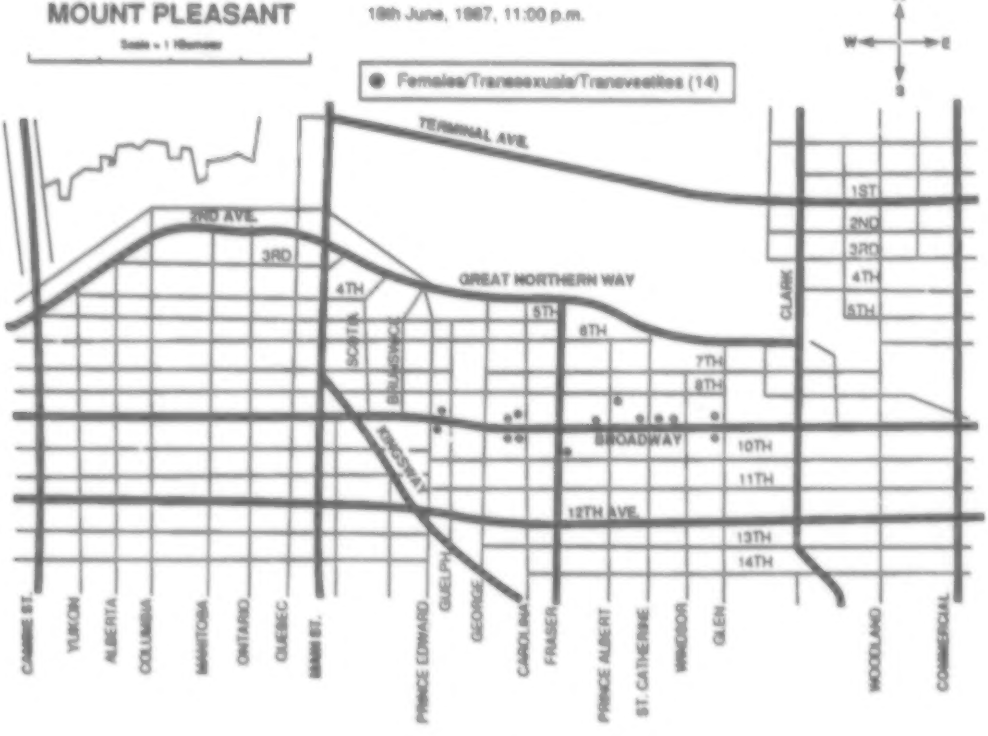
Map 21A
RICHARDS-SEYMOUR
18th June 1987, 10:30 p.m.


N
E
W
S
● Females/transsexuals /transvestites (26)
▲ Males (11)
ROBSON
SMITHE
NELSON
HELMCKEN
DAVIE
DRAKE
SEYMOUR
RICHARDS
GRANVILLE
HOMER
PACIFIC
Scale-1 Kilometer

Map 21C
STRATHCONA
18th June 1987, 10:00 p.m.

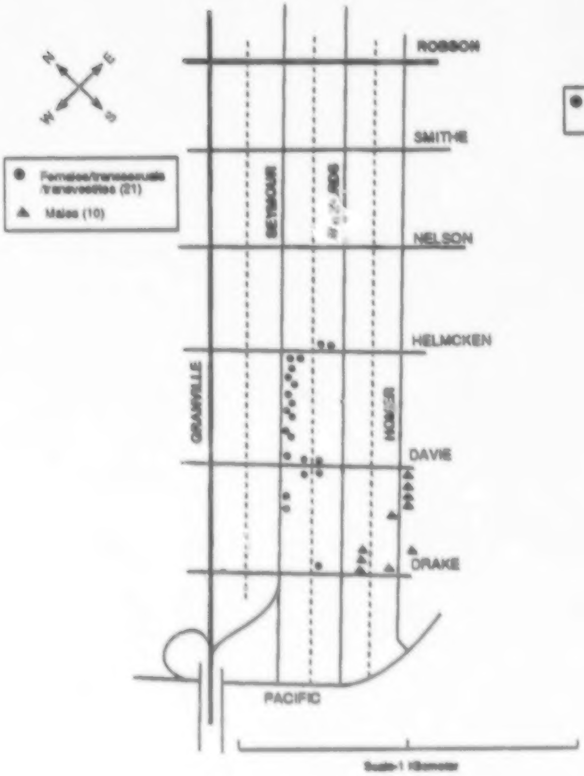

● Females/transsexuals /transvestites (12)
PRIOR
UNION
GEORGIA ST
KEEFER ST
PENDER ST
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE
PRINCESS AVE
HEATLEY AVE
HAWKS
Scale = .5 Kilometer

Map 21B
MOUNT PLEASANT
18th June, 1987, 11:00 p.m.


Scale = 1 Kilometer
N
W
E
S
● Females/Transsexuals/Transvestites (14)
TERMINAL AVE
2ND AVE
3RD
4TH
GREAT NORTHERN WAY
5TH
6TH
7TH
8TH
BROADWAY
10TH
11TH
12TH AVE
13TH
14TH
1ST
2ND
3RD
4TH
5TH
CLARK
SCOTIA
BRUNSWICK
KINGSWAY
CAMBIE ST.
YUKON
ALBERTA
COLUMBIA
MANITOBA
ONTARIO
QUEBEC
MAIN ST.
PRINCE EDWARD
GUELPH
GEORGE
CAROLINA
FRASER
PRINCE ALBERT
ST. CATHERINE
WINDSOR
GLEN
WOODLAND
COMMERCIAL

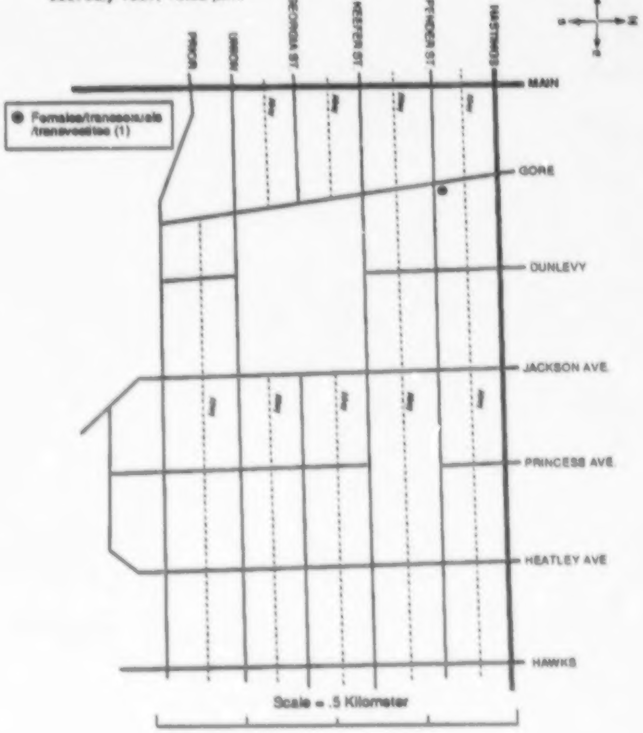
Map 22A
RICHARDS-SEYMOUR

30th July 1987, 10:30 p.m.


N
E
S
W
Females/transsexuals/transvestites (21)
Males (10)
ROBSON
SMITHE
NELSON
HELMCKEN
DAVIE
DRAKE
SEYMOUR
RICHARDS
GRANVILLE
HOMER
PACIFIC
Scale-1 Kilometer

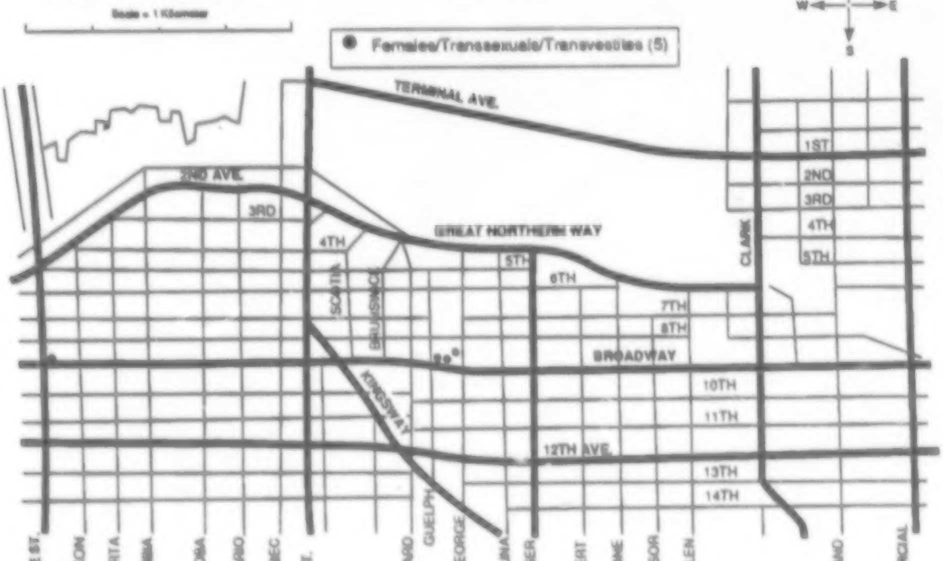
Map 22C
STRATHCONA

30th July 1987, 10:00 p.m.


PRIOR
UNION
GEORGIA ST
KEEFER ST
PENDER ST
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE
PRINCESS AVE
HEATLEY AVE
HAWKS
Females/transsexuals/transvestites (1)
Scale = .5 Kilometer

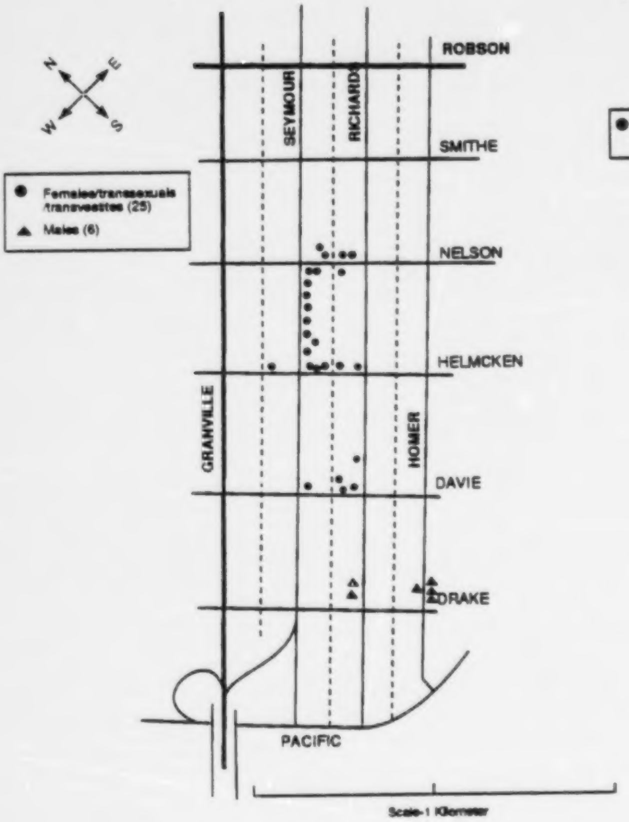
Map 22B
MOUNT PLEASANT

30th July 1987, 11:00 p.m.


Scale = 1 Kilometer
N
W
E
S
Females/Transsexuals/Transvestites (5)
TERMINAL AVE.
2ND AVE.
3RD
4TH
GREAT NORTHERN WAY
5TH
6TH
7TH
8TH
BROADWAY
10TH
11TH
12TH AVE.
13TH
14TH
1ST
2ND
3RD
4TH
5TH
CLARK
SCOTIA
BRUNSWICK
KINGSWAY
CAMBIE ST.
YUKON
ALBERTA
COLUMBIA
MANITOBA
ONTARIO
QUEBEC
MAIN ST.
PRINCE EDWARD
GUELPH
GEORGE
CAROLINA
FRASER
PRINCE ALBERT
ST CATHERINE
WINDSOR
GLEN
WOODLAND
COMMERCIAL

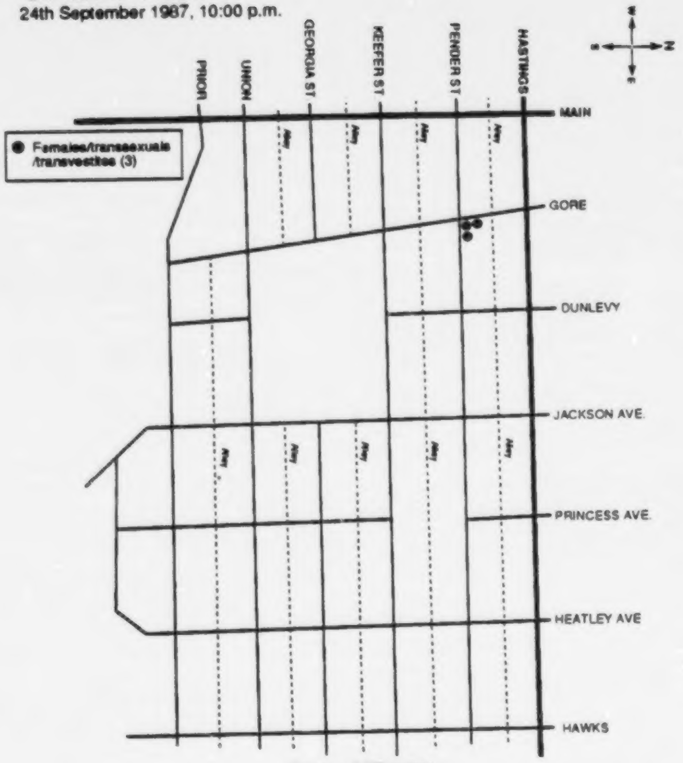
Map 23A
RICHARDS-SEYMOUR

24th September 1987, 10:30 p.m.


N
E
W
S
● Females/transsexuals /transvestites (25)
▲ Males (6)
ROBSON
SMITHE
NELSON
HELMCKEN
DAVIE
DRAKE
PACIFIC
GRANVILLE
SEYMOUR
RICHARDS
HOMER
Scale-1 Kilometer

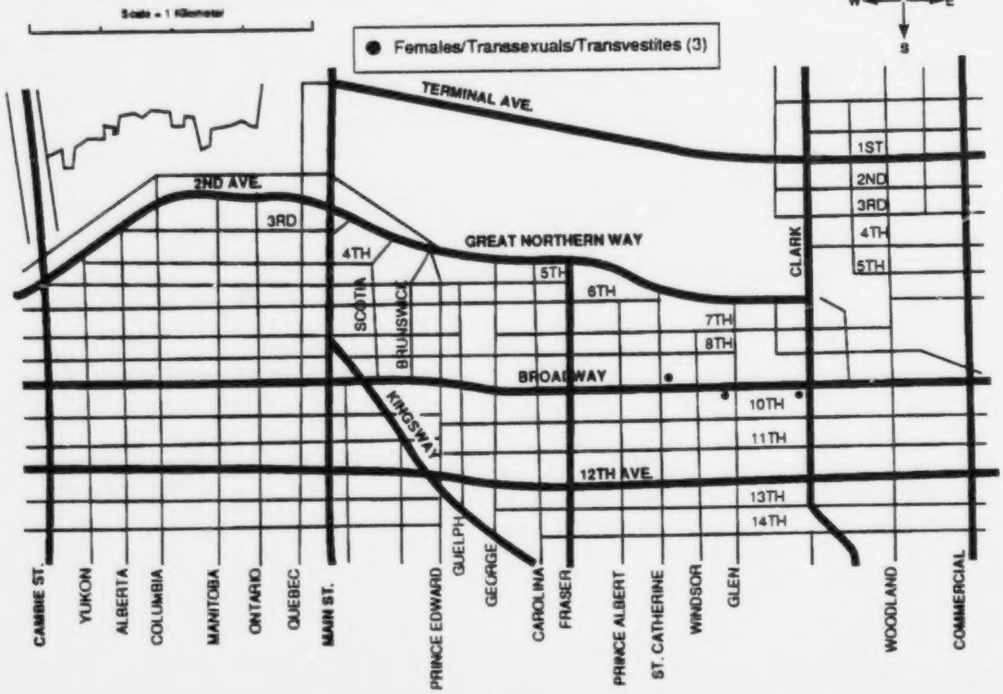
Map 23C
STRATHCONA

24th September 1987, 10:00 p.m.

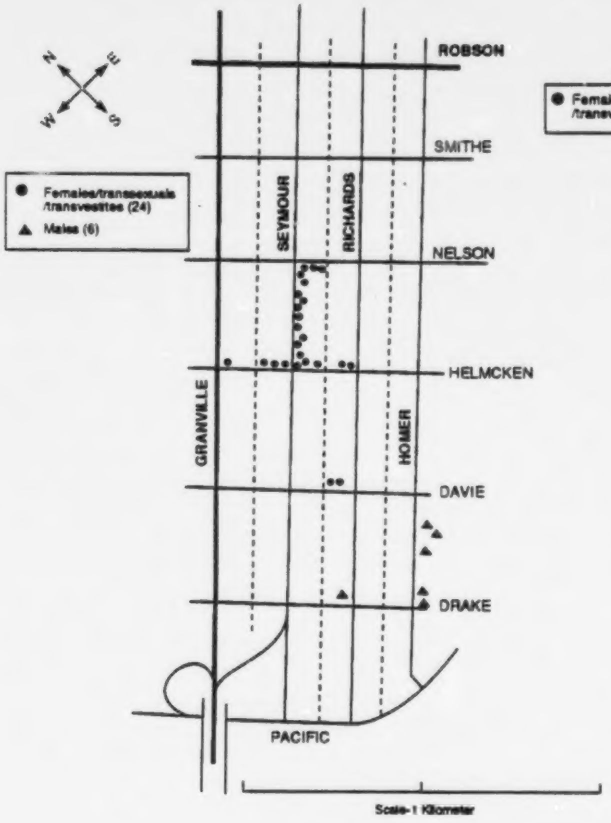

W
S
N
E
● Females/transsexuals /transvestites (3)
PRIOR
UNION
GEORGIA ST
KEEFER ST
PENDER ST
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE.
PRINCESS AVE.
HEATLEY AVE
HAWKS
lane
Scale = .5 Kilometer

Map 23B
MOUNT PLEASANT

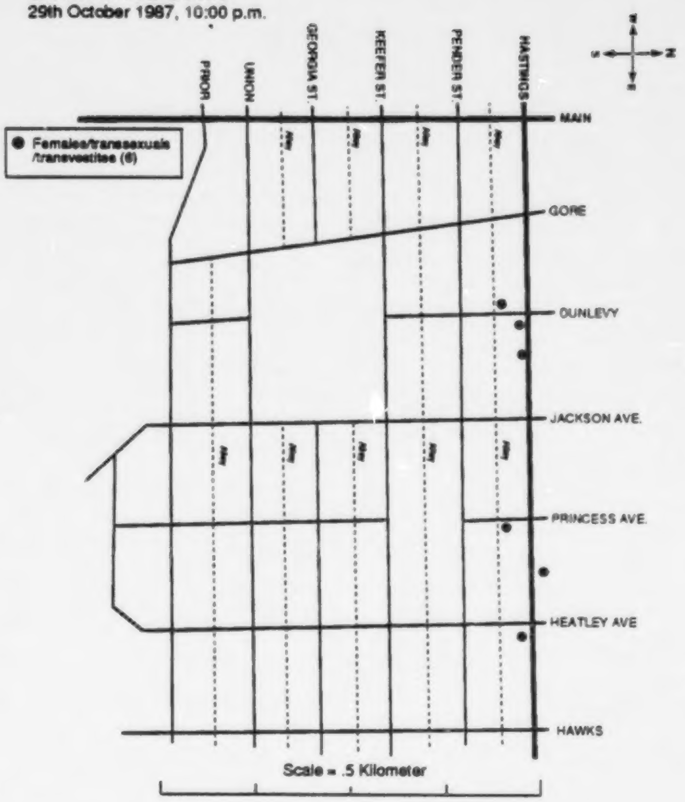
24th September 1987, 11:00 p.m.


Scale = 1 Kilometer
N
W
E
S
● Females/Transsexuals/Transvestites (3)
TERMINAL AVE.
2ND AVE.
3RD
4TH
GREAT NORTHERN WAY
5TH
6TH
7TH
8TH
BROADWAY
10TH
11TH
12TH AVE.
13TH
14TH
KINGSWAY
1ST
2ND
3RD
4TH
5TH
CLARK
SCOTIA
BRUNSWICK
CAMBIE ST.
YUKON
ALBERTA
COLUMBIA
MANITOBA
ONTARIO
QUEBEC
MAIN ST.
PRINCE EDWARD
GUELPH
GEORGE
CAROLINA
FRASER
PRINCE ALBERT
ST. CATHERINE
WINDSOR
GLEN
WOODLAND
COMMERCIAL

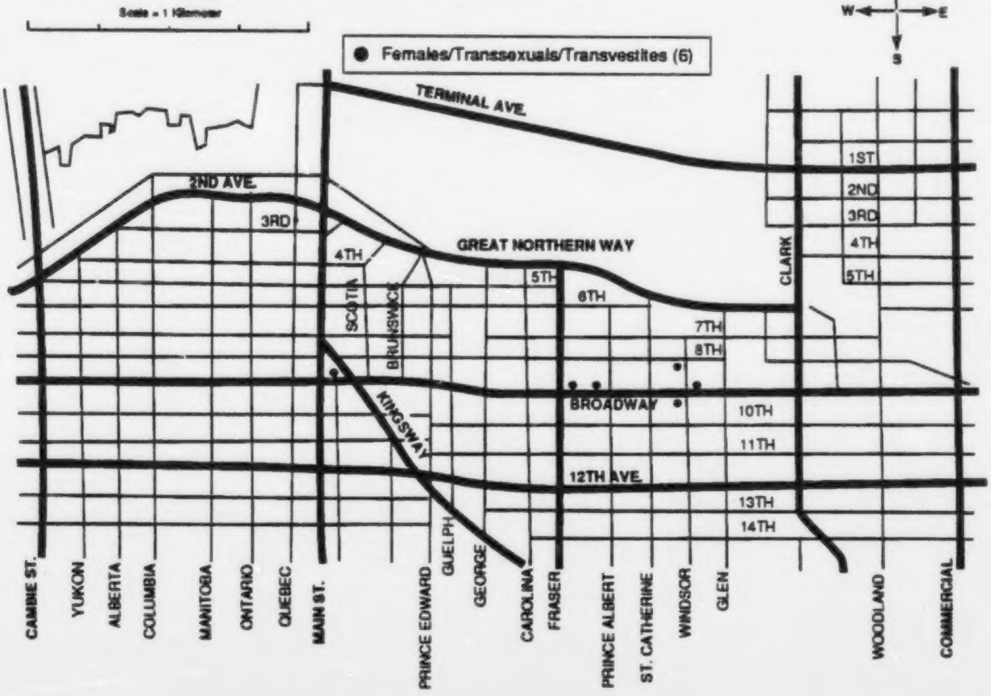
Map 24A
RICHARDS-SEYMOUR
29th October 1987, 10:30 p.m.


N
E
W
S
● Females/transsexuals /transvestites (24)
▲ Males (6)
ROBSON
SMITHE
NELSON
HELMCKEN
DAVIE
DRAKE
PACIFIC
GRANVILLE
SEYMOUR
RICHARDS
HOMER
Scale-1 Kilometer

Map 24C
STRATHCONA
29th October 1987, 10:00 p.m.

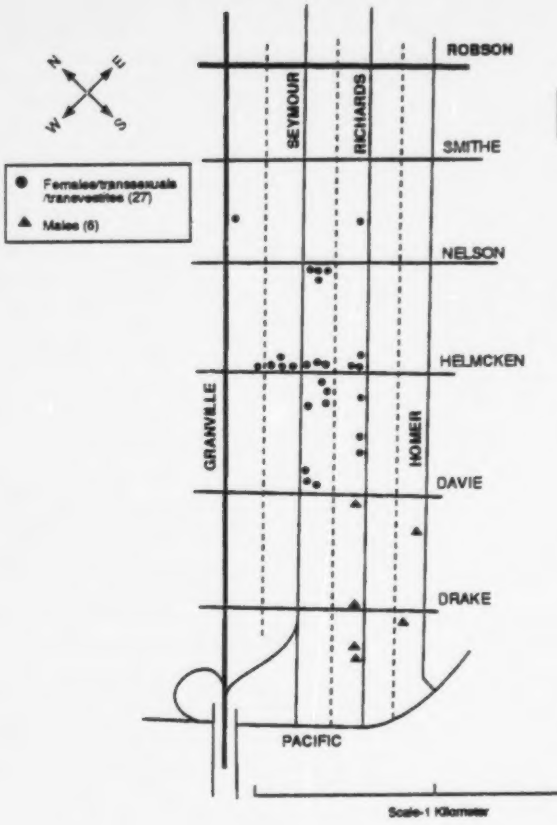

N
S
E
W
● Females/transsexuals /transvestites (6)
PRIOR
UNION
GEORGIA ST.
KEEFER ST.
PENDER ST.
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE.
PRINCESS AVE.
HEATLEY AVE
HAWKS
Scale = .5 Kilometer

Map 24B
MOUNT PLEASANT
29th October 1987, 11:00 p.m.


Scale = 1 Kilometer
N
W
E
S
● Females/Transsexuals/Transvestites (6)
TERMINAL AVE.
2ND AVE.
3RD
4TH
GREAT NORTHERN WAY
5TH
6TH
7TH
8TH
BROADWAY
10TH
11TH
12TH AVE.
13TH
14TH
1ST
2ND
3RD
4TH
5TH
CLARK
SCOTIA
BRUNSWICK
KINGSWAY
CAMBIE ST.
YUKON
ALBERTA
COLUMBIA
MANITOBA
ONTARIO
QUEBEC
MAIN ST.
PRINCE EDWARD
GUELPH
GEORGE
CAROLINA
FRASER
PRINCE ALBERT
ST. CATHERINE
WINDSOR
GLEN
WOODLAND
COMMERCIAL

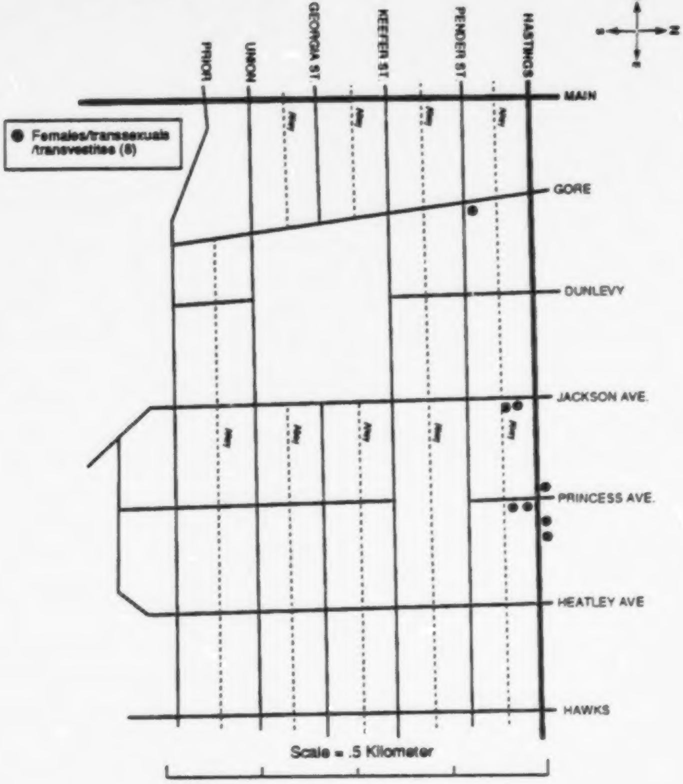
Map 25A
RICHARDS-SEYMOUR

10th December 1987, 10:30 p.m.


N
E
W
S
● Females/transsexuals /transvestites (27)
▲ Males (6)
ROBSON
SEYMOUR
RICHARDS
SMITHE
NELSON
HELMCKEN
GRANVILLE
HOMER
DAVIE
DRAKE
PACIFIC
Scale-1 Kilometer

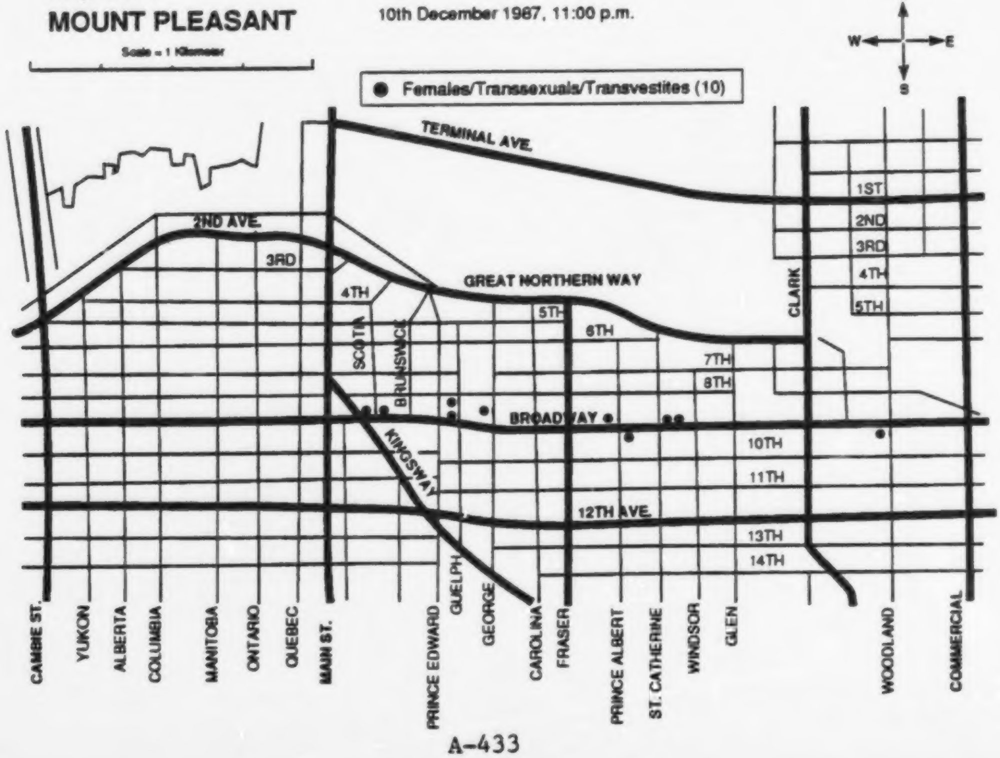
Map 25C
STRATHCONA

10th December 1987, 10:00 p.m.


● Females/transsexuals /transvestites (8)
PRIOR
UNION
GEORGIA ST
KEEFER ST
PENDER ST
HASTINGS
MAIN
GORE
DUNLEVY
JACKSON AVE.
PRINCESS AVE.
HEATLEY AVE
HAWKS
Scale = .5 Kilometer

Map 25B
MOUNT PLEASANT

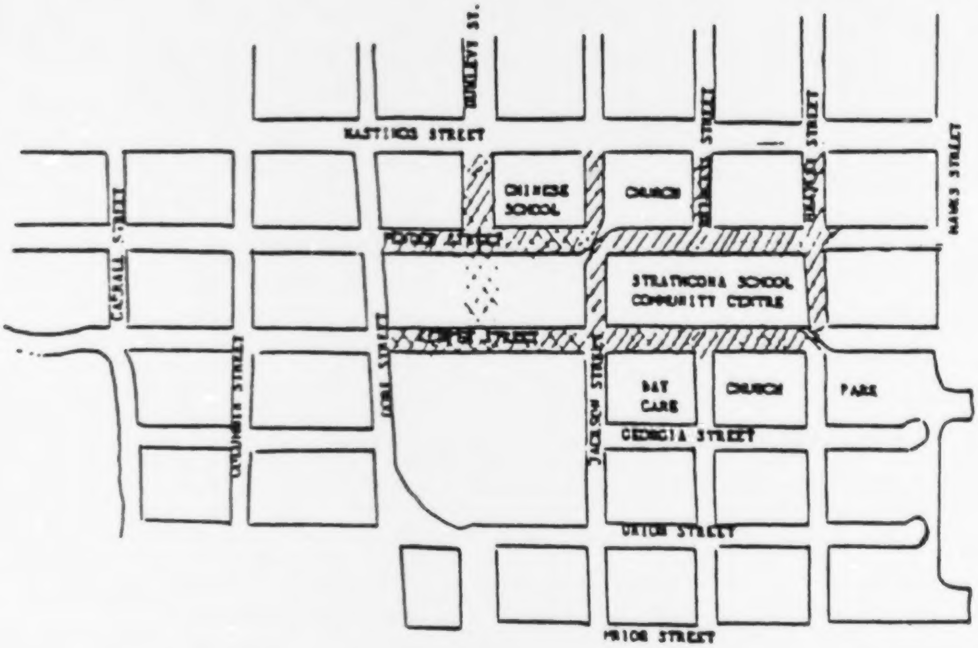
10th December 1987, 11:00 p.m.


Scale = 1 Kilometer
N
W
E
S
● Females/Transsexuals/Transvestites (10)
TERMINAL AVE.
1ST
2ND AVE.
2ND
3RD
3RD
4TH
4TH
GREAT NORTHERN WAY
5TH
5TH
6TH
7TH
8TH
CLARK
SCOTIA
BRUNSWICK
BROADWAY
KINGSWAY
10TH
11TH
12TH AVE.
13TH
14TH
CAMBIE ST.
YUKON
ALBERTA
COLUMBIA
MANITOBA
ONTARIO
QUEBEC
MAIN ST.
PRINCE EDWARD
GUELPH
GEORGE
CAROLINA
FRASER
PRINCE ALBERT
ST. CATHERINE
WINDSOR
GLEN
WOODLAND
COMMERCIAL

MAP 26

NOTICE HANDED OUT TO STRATHCONA PROSTITUTES IN 1987

STRATHCONA NO-GO AREAS


DUNLEVY ST.
HASTINGS STREET
PRINCESS STREET
HEATLEY STREET
HAWKS STREET
CARRALL STREET
CHINESE SCHOOL
CHURCH
PENDER STREET
STRATHCONA SCHOOL COMMUNITY CENTRE
KEEFER STREET
COLUMBIA STREET
GORE STREET
JACKSON STREET
DAY CARE
CHURCH
PARK
GEORGIA STREET
UNION STREET
PRIOR STREET

PLEASE STAY OUT OF HIGHLIGHTED AREAS

The many families with kids in Strathcona are very worried by the presence of prostitutes in our neighbourhood. We are asking you, as fellow parents and members of the community, to avoid certain areas where families live, and children play and go to school. The police have agreed to enforce all laws most stringently in residential areas and in particular around the schools and playgrounds. Please keep your business to non-residential areas.

TABLE 195

COMMENTATORS QUOTED IN VANCOUVER DAILY NEWSPAPERS AS SAYING THAT S.195.1 DOES "WORKS;" I.E. DOES SERVE TO SUPPRESS STREET PROSTITUTION

(Multiple Response)

	GETS PROS AND JOHNS OFF STRT.	SAVES NEIGHB ORHOOD	POLICE CAN ENFRCE	CRTS WILL UPHLD	OTHER	TOTAL PERSONS
Fed. Cons.	1		1	1	2	2
Fed. Lib.	2					2
Fed. N.D.P.						0
B.C. Socred	1			4		4
B.C. N.D.P.						0
Van. Council		1	1			2
Police	9		6		2	16
Soc Workers						0
Res/Bus grp.	3	6			2	7
Wom's group						0
Prost/ASP	3		1			2
Academic					1	1
Journalist	1					1
S.C. Judge				7	1	8
P.C. Judge	6	1	2	10		17
Crown	5		1	4		9
Defence						0
Civil Lib.						0
Other						0

TABLE 196

COMMENTATORS QUOTED IN VANCOUVER DAILY NEWSPAPERS
SUGGESTIONS THAT S.195.1 DOES NOT "WORK;"
I.E. DOES NOT SERVE TO SUPRESS STREET PROSTITUTION
(Multiple Response)

	PROS NOT OFF STRT	POLCE DON'T ENFRC	LAW NOT UPHELD LIGHT SNTNCES	OTHER	TOTAL
Fed. Cons.					0
Fed. Lib.					0
Fed. N.D.P.					0
B.C. Socred			2		2
B.C. N.D.P.					0
Van. Council			1		1
Police	5		6		11
Soc Workers					0
Res/Bus grp.	12	2	13	2	19
Wom's group					0
Prost/ASP	10	2		1	13
Academic					0
Journalist	2	1	3		3
S.C. Judge					0
P.C. Judge	1				1
Crown			10		10
Defence					0
Civil Lib.					0
Other					0

TABLE 197

CRITICISMS OF S.195.1
(Multiple Response)

	1	2	3	4	5	6	7	8	9	TOTAL
Fed. Cons.										0
Fed. Lib.			2							2
Fed. N.D.P.										0
B.C. Socred										0
B.C. N.D.P.										0
Van. Council	1		1							2
Police				1		1				2
Soc Workers										0
Res/Bus grp.			1	2		1				4
Wom's group	2		3	3		2				5
Prost/ASP	11	1	3	10	1	3			1	22
Academic			1	1						1
Journalist	3	2							1	3
S.C. Judge										0
P.C. Judge	29						11		2	35
Crown	1			1		1				3
Defence	35		2			3	3	1	2	44
Civil Lib.										0
Other				1		1				2

1= Gives police too much discretionary power
2= Ignores research results
3= Ignores real issues (economics, patriarchy etc)
4= Increases susceptibility of prostitutes to pimps and bad tricks
5= Ignores plight of juvenile prostitutes
6= Enforcement biased against prostitutes
7= Car not a public place
8= Does nothing to mitigate effect of bawdy house law
9= Other

FIGURE 1
S.195.1 CHARGES, VANCOUVER 1986-1987

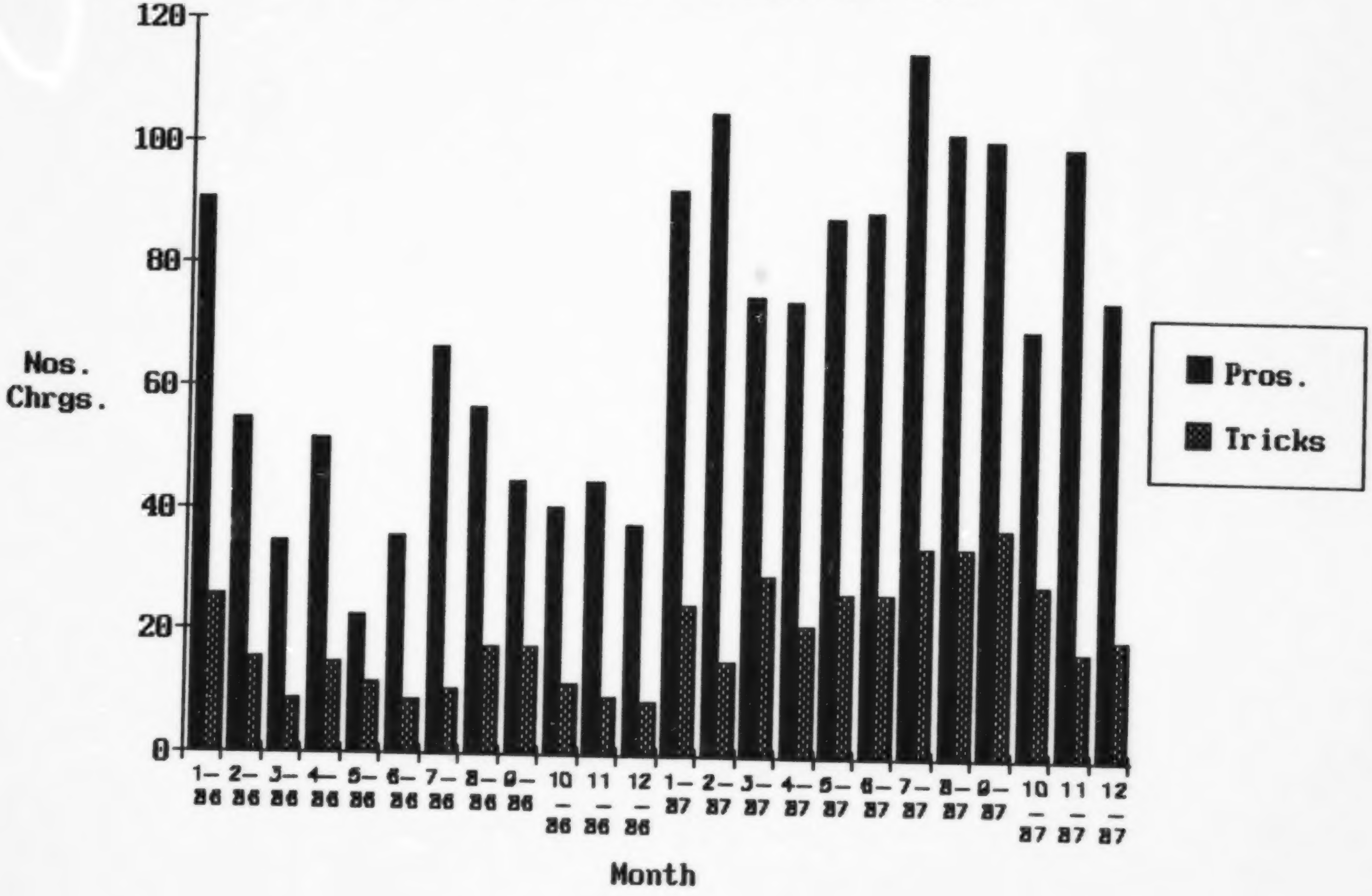


FIGURE 2
S.195.1 CHARGES
NUMBER OF YOUTHS CHARGED IN VANCOUVER
JANUARY 1986 TO AUGUST 1987

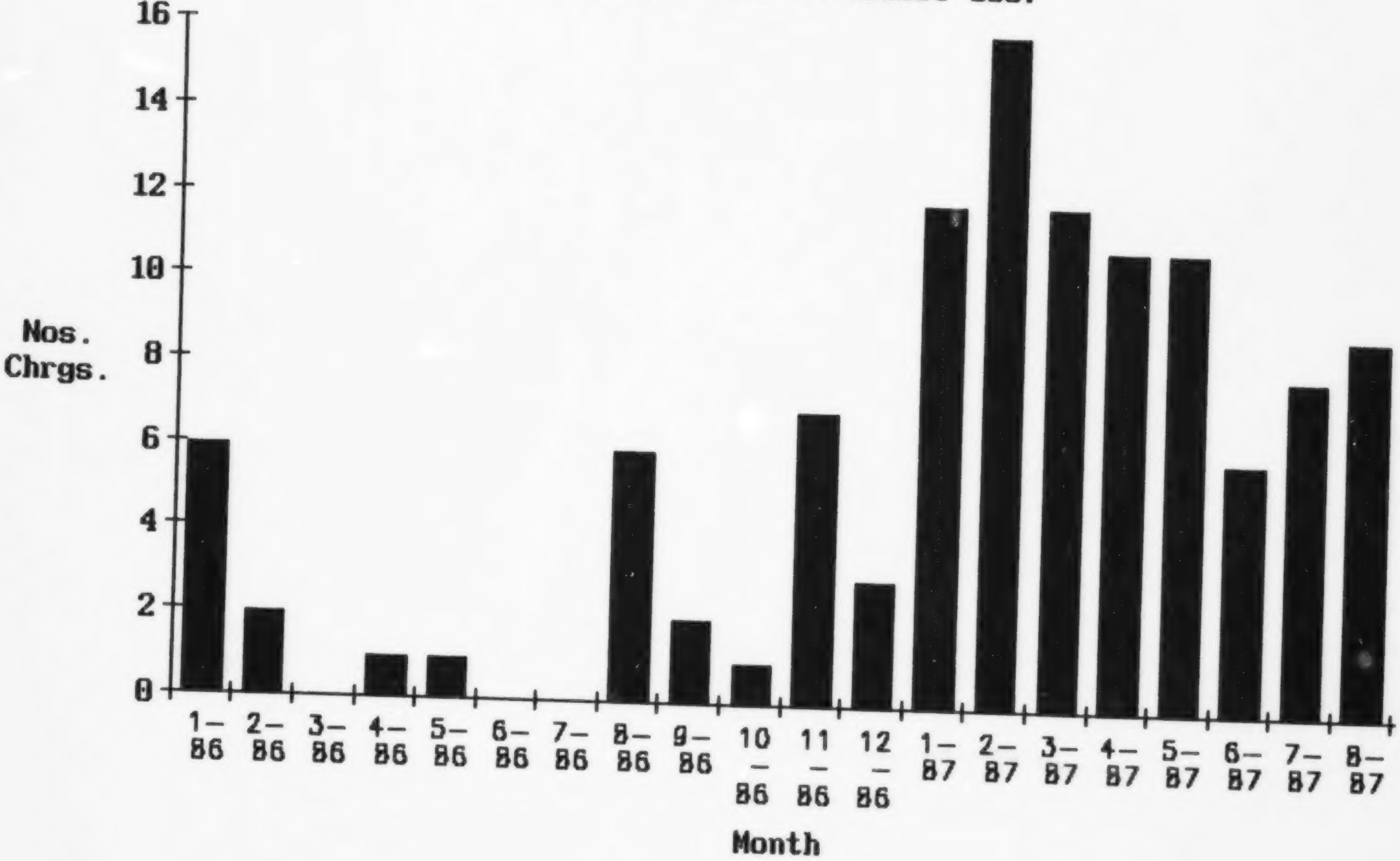


FIGURE 3

COUNTS OF VANCOUVER STREET PROSTITUTES
APRIL 1985--MARCH 1988, 10.00--11.00 P.M.
(Blanks=missing data)

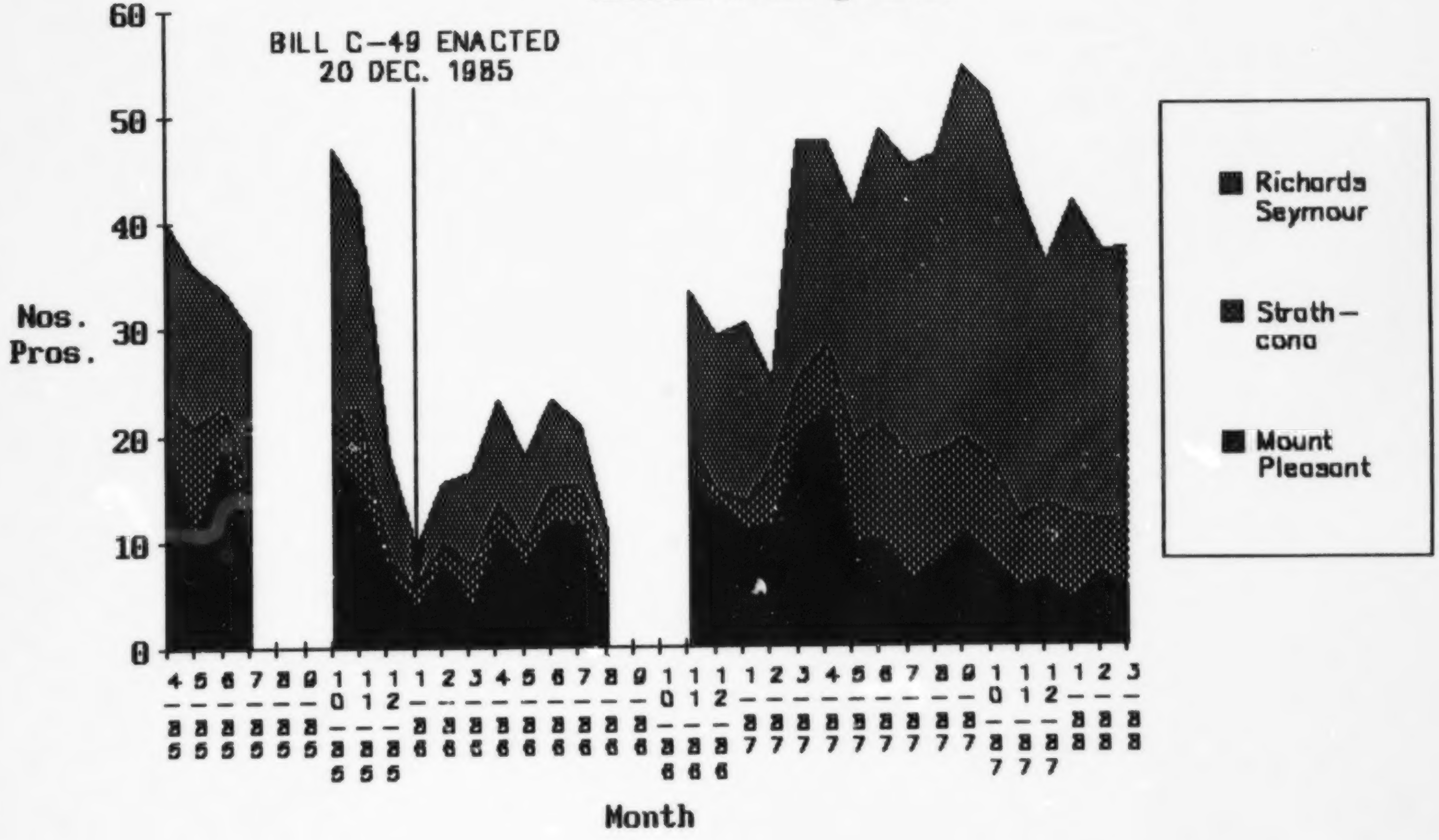


FIGURE 4
PROPORTION OF PROSTITUTES IN THREE STROLLS

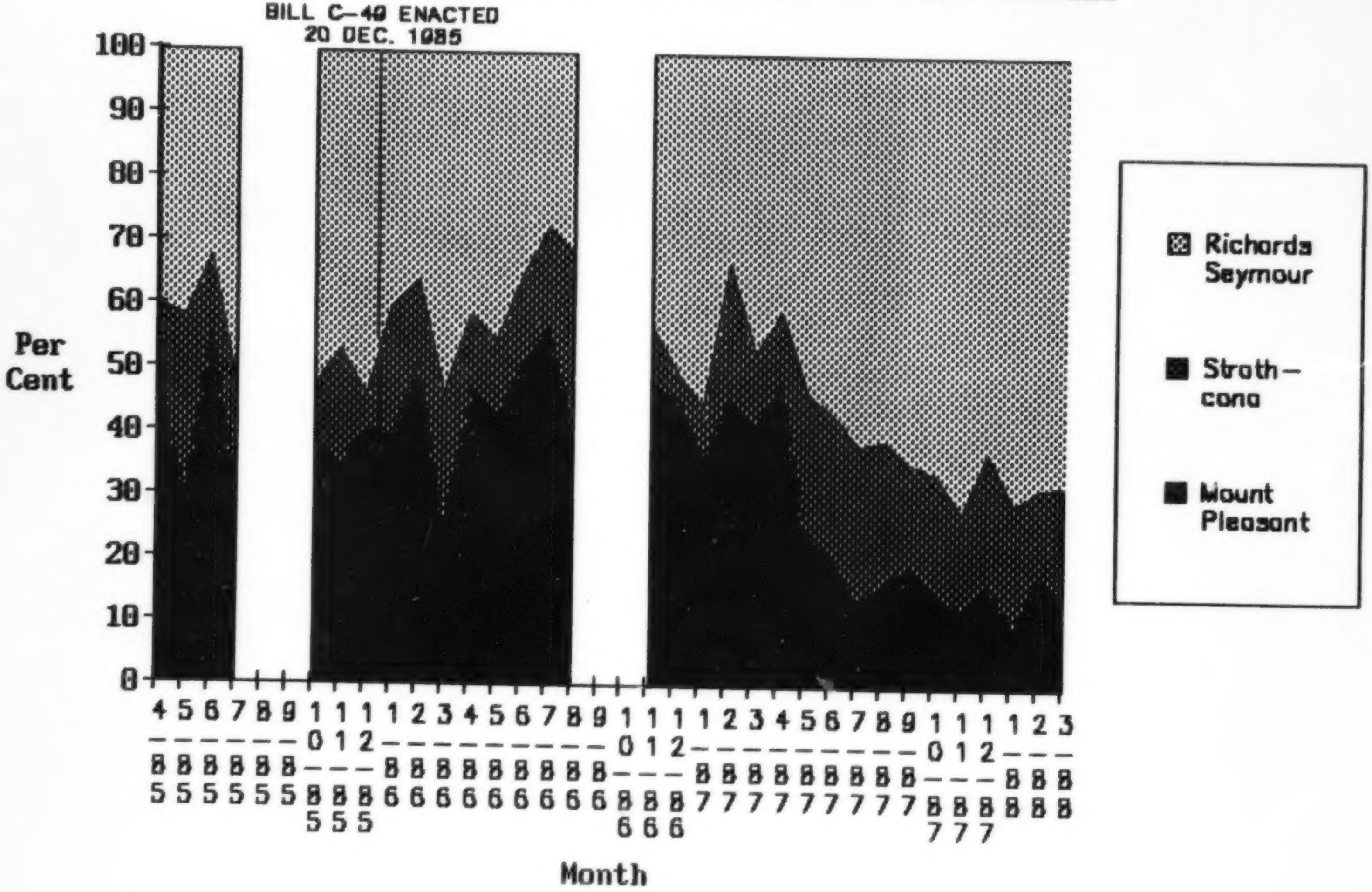


FIGURE 5
COUNTS OF VANCOUVER STREET PROSTITUTES
NOVEMBER 1982--MARCH 1988, 10.00--12.00 P.M.
(Blanks=missing data)

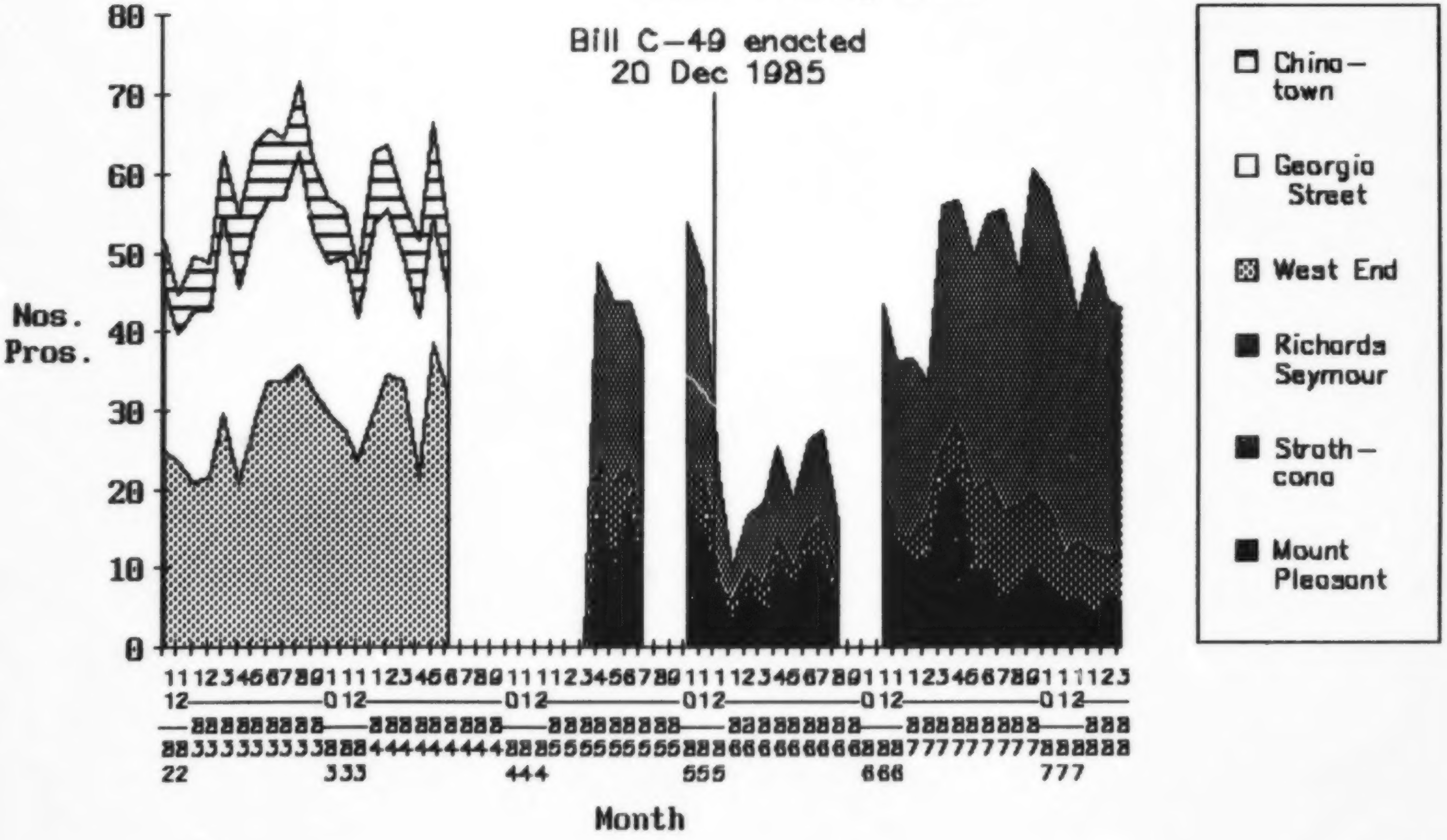
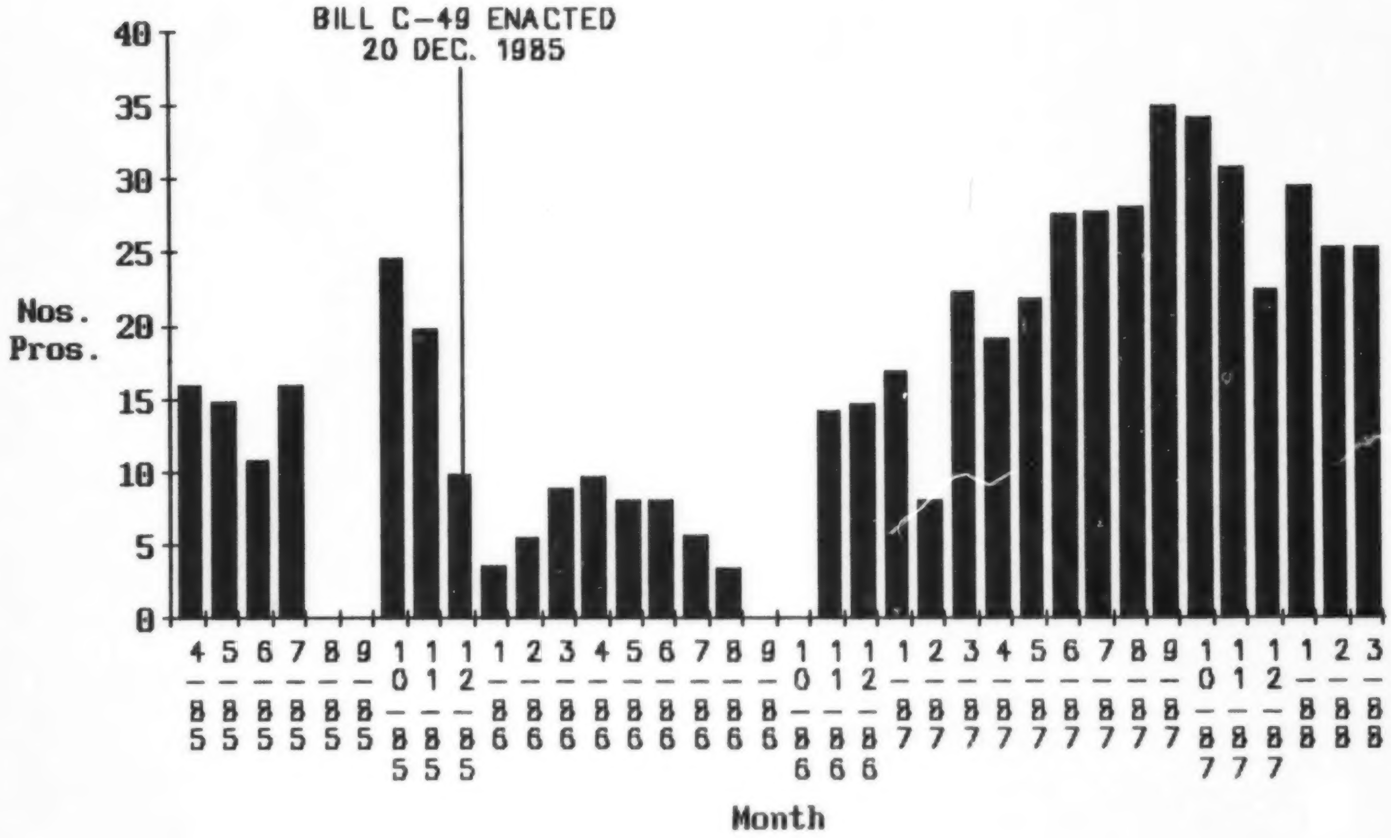


FIGURE 6
COUNTS OF RICHARDS-SEYMOUR STREET PROSTITUTES
APRIL 1985--MARCH 1988, 10.00--11.00 P.M.
(Blanks=missing data)



BILL C-49 ENACTED
20 DEC. 1985

FIGURE 7
COUNTS OF MOUNT PLEASANT STREET PROSTITUTES
APRIL 1985--MARCH 1988, 10.00--11.00 P.M.
(Blanks=missing data)

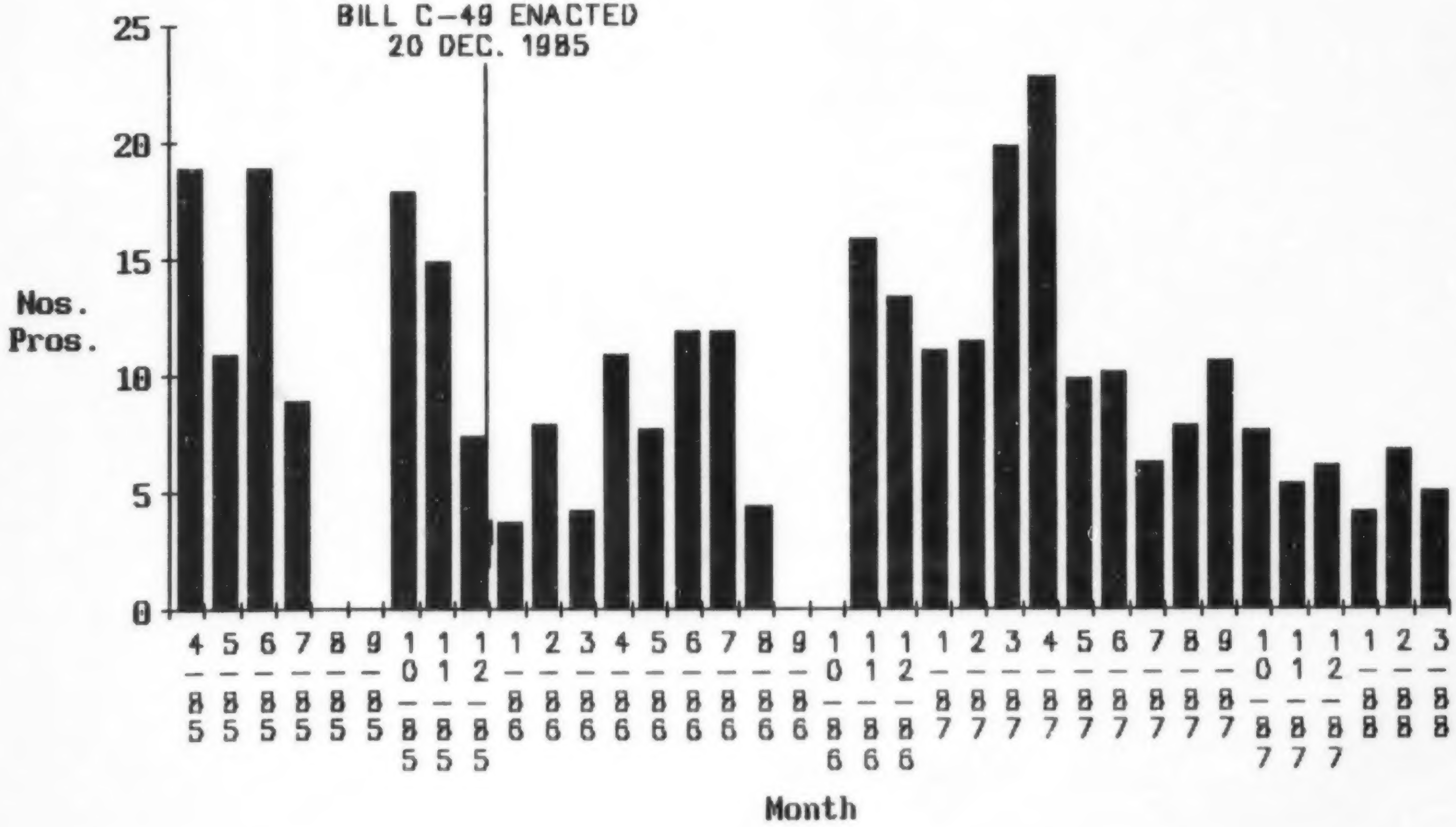


FIGURE 8
COUNTS OF STRATHCONA STREET PROSTITUTES
APRIL 1985--MARCH 1988, 10.00--11.00 P.M.
(Blanks=missing data)

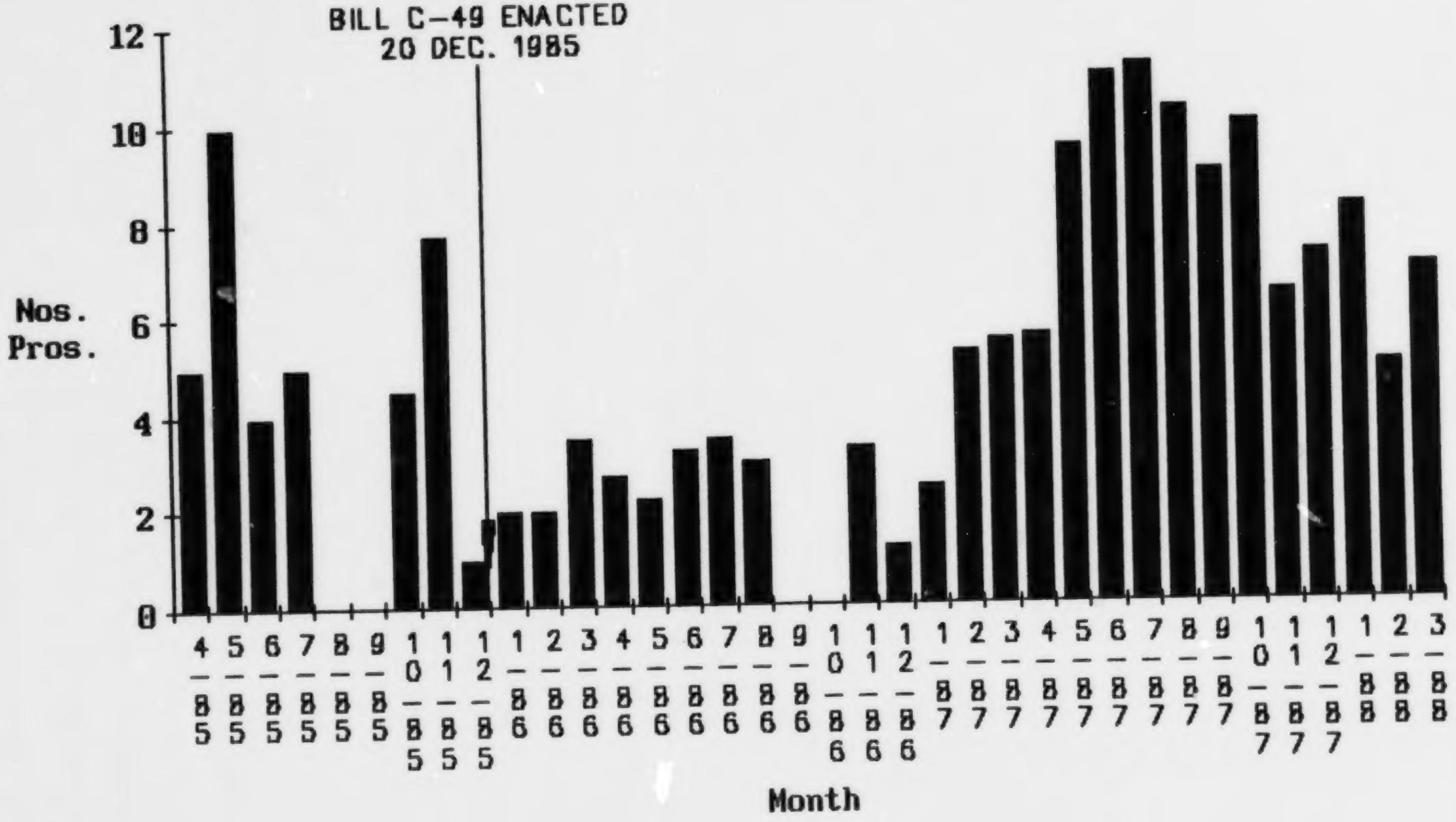


FIGURE 9
DISPLACEMENT OF STREET PROSTITUTES FROM MOUNT PLEASANT
(Blanks=missing data)

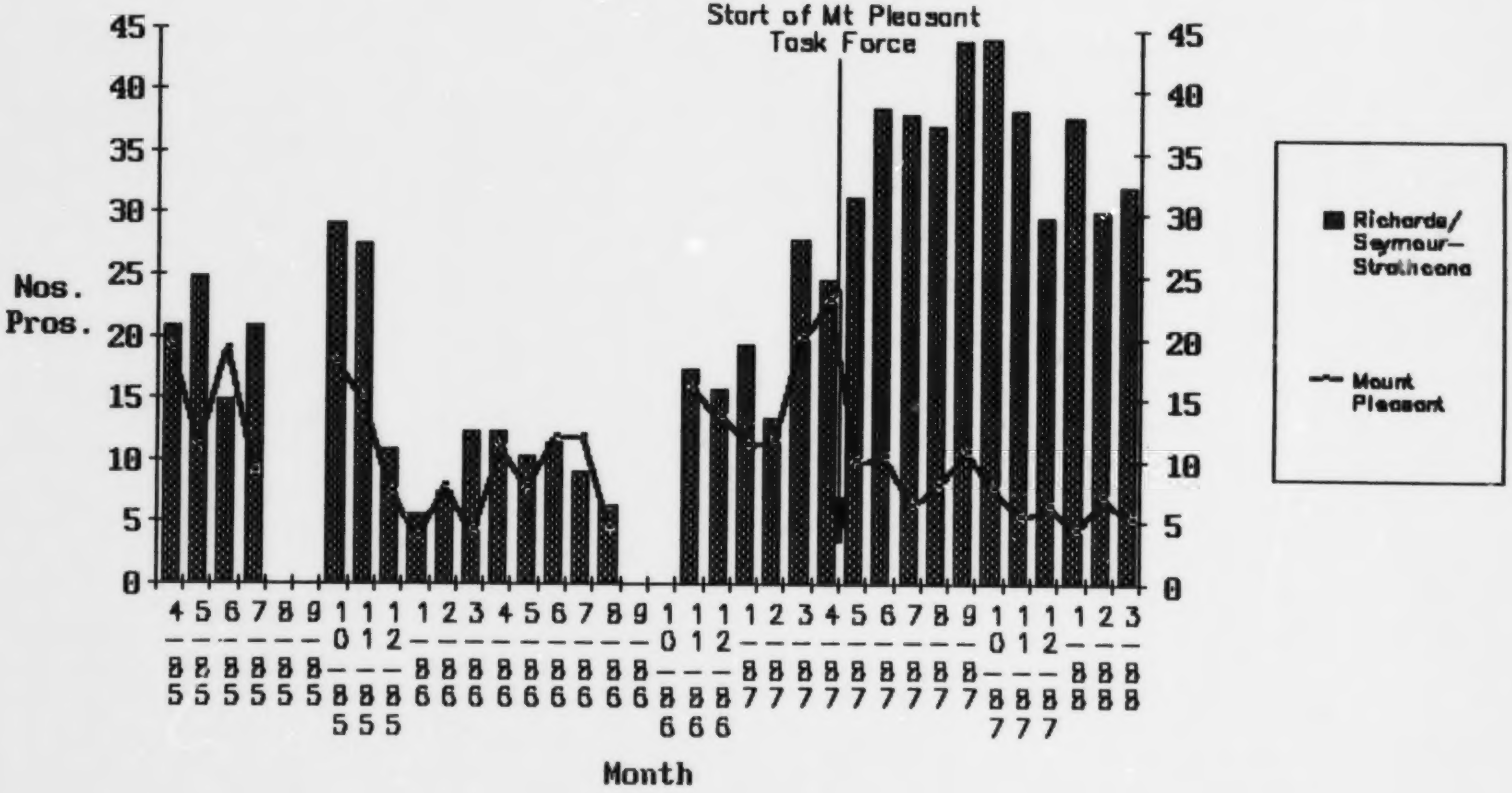
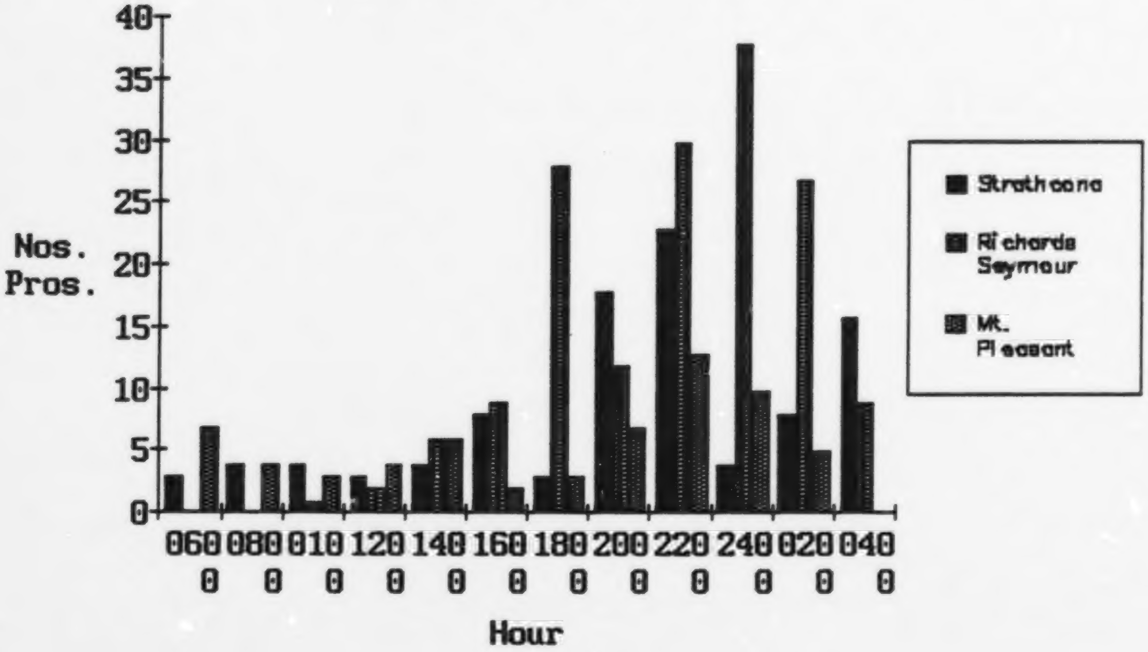


FIGURE 10
COUNTS OF VANCOUVER STREET PROSTITUTES:
AVERAGE 24 HOUR PROFILE



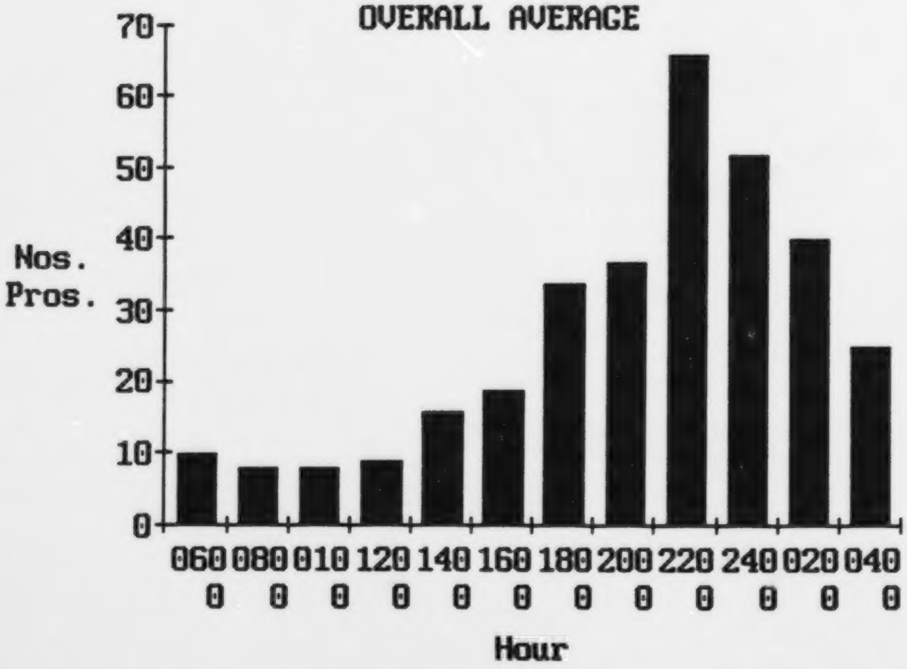
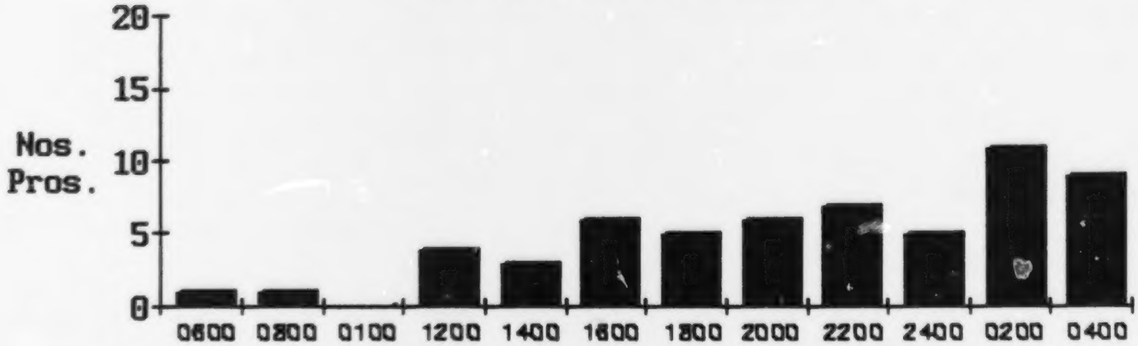
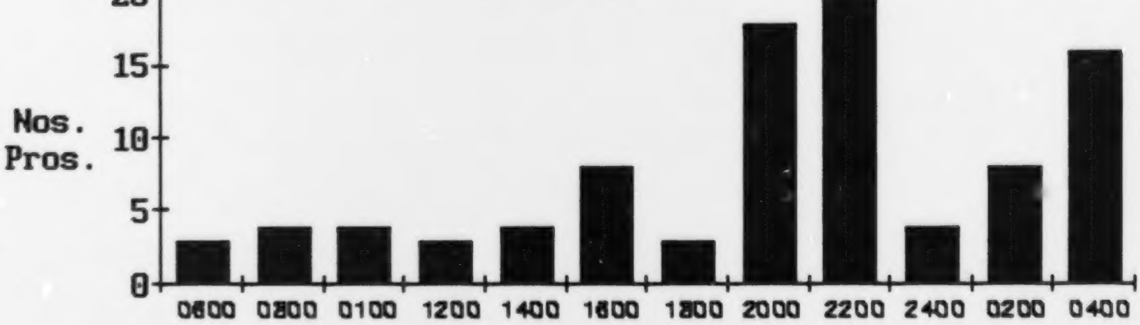


FIGURE 11
COUNTS OF STRATHCONA PROSTITUTES
24 HOUR PROFILE JULY 1987



NOVEMBER 1987



JUNE 1988

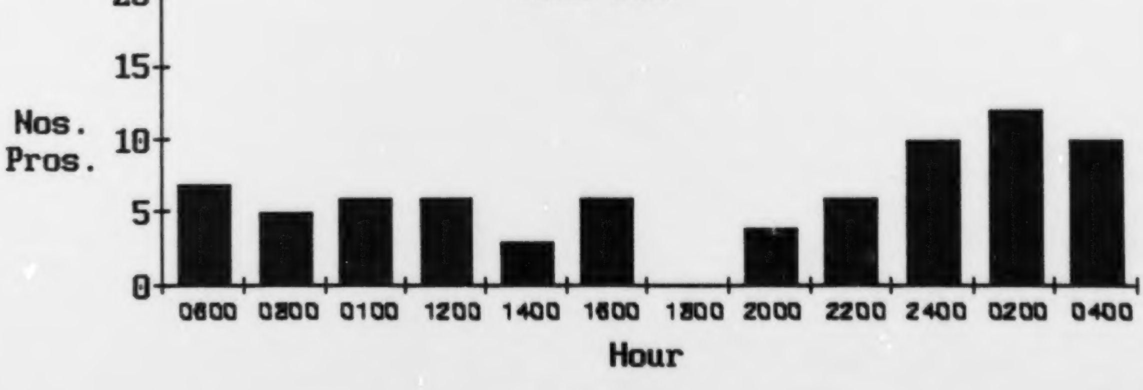


FIGURE 12
COUNTS OF VANCOUVER STREET PROSTITUTES
AVERAGE 7 DAY PROFILE (10.00--11.00 P.M.)

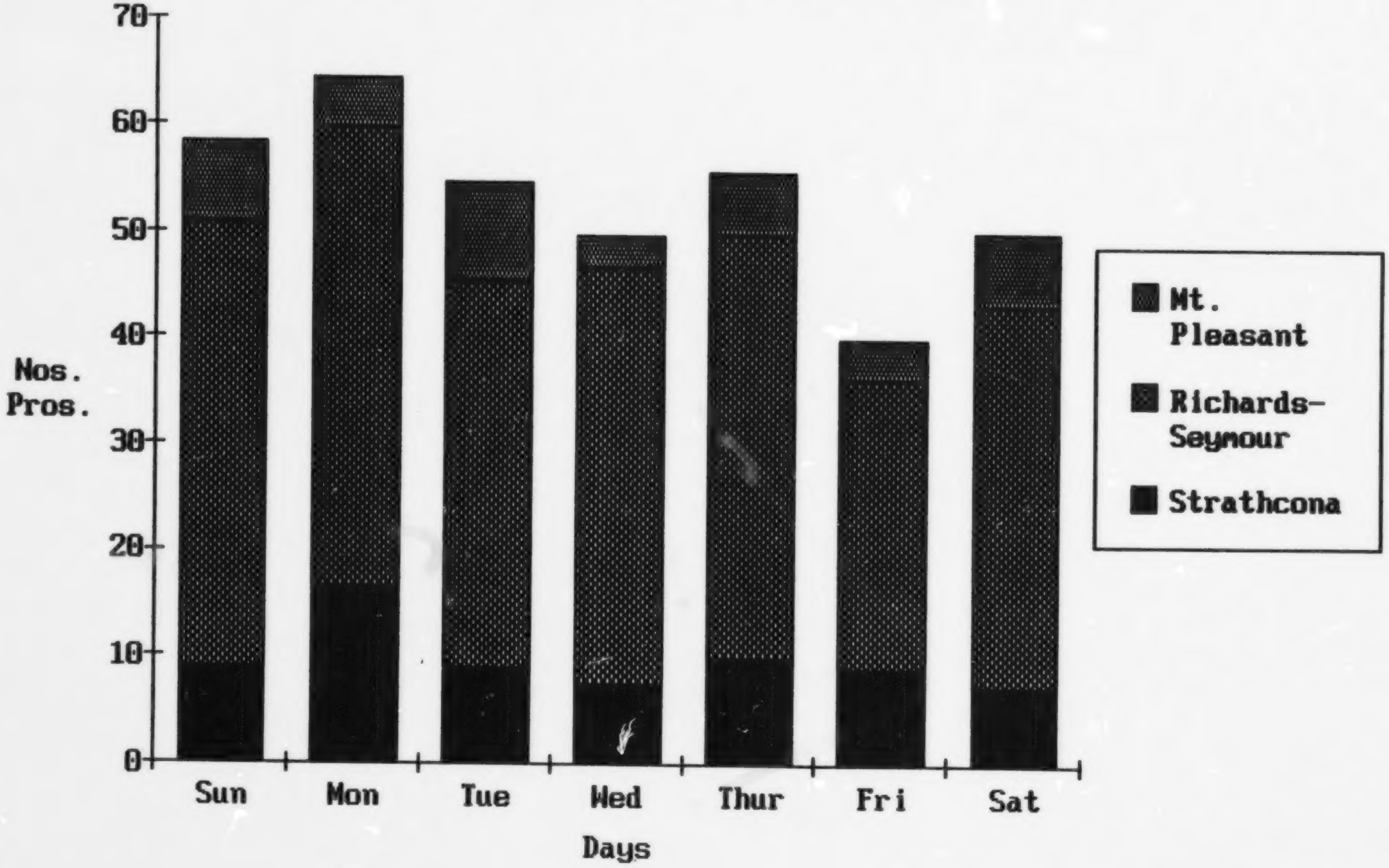


FIGURE 13
COUNTS OF VANCOUVER STREET PROSTITUTES
AVERAGE 7 DAY PROFILE FOR THREE STROLLS (10.00--11.00 P.M.)

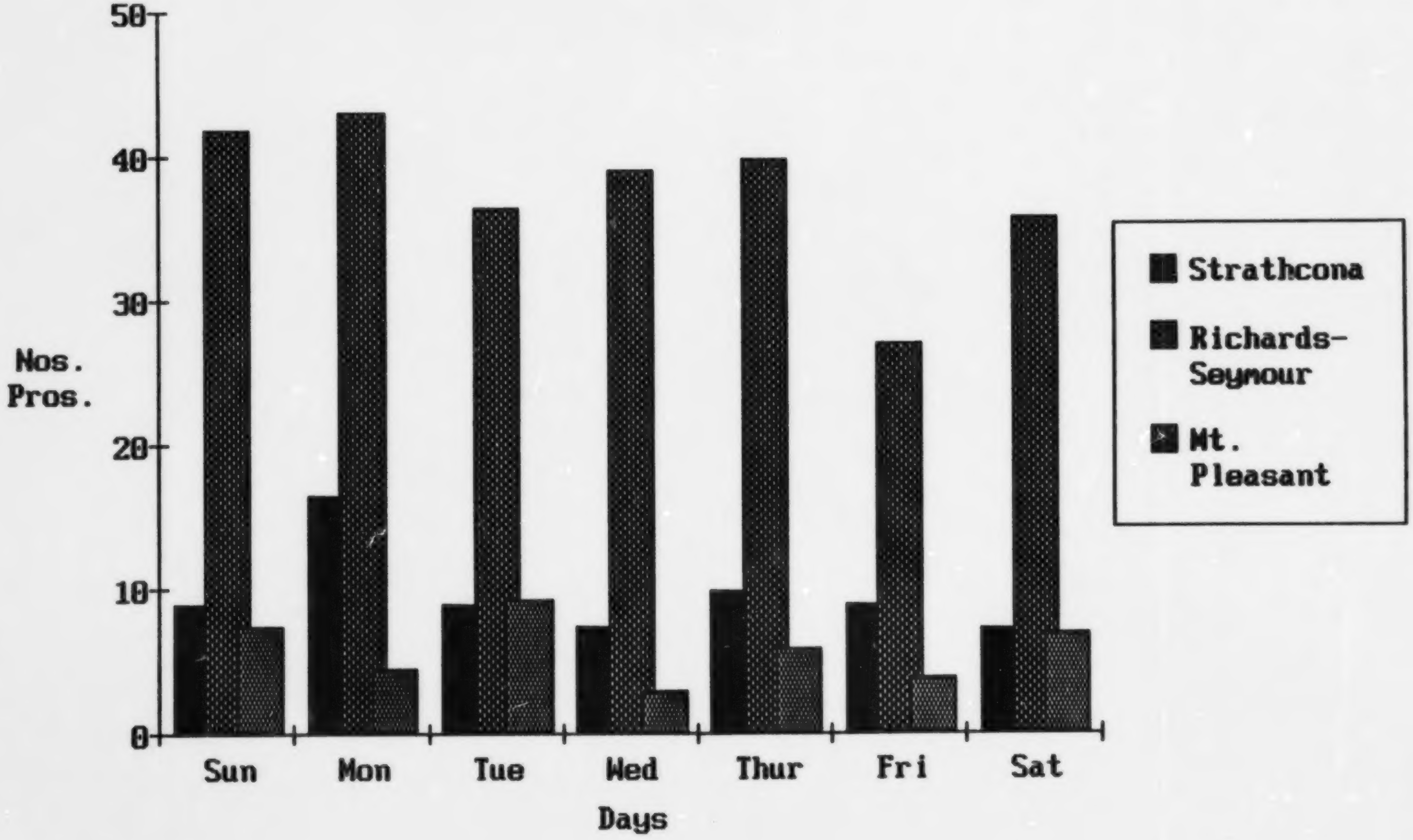


FIGURE 14
S.195.1 CHARGES (262 PROSTITUTES, 79 TRICKS)
LAID BY DAY OF WEEK
(Charges laid up to 2.00 a.m. Saturday morning coded as Friday)

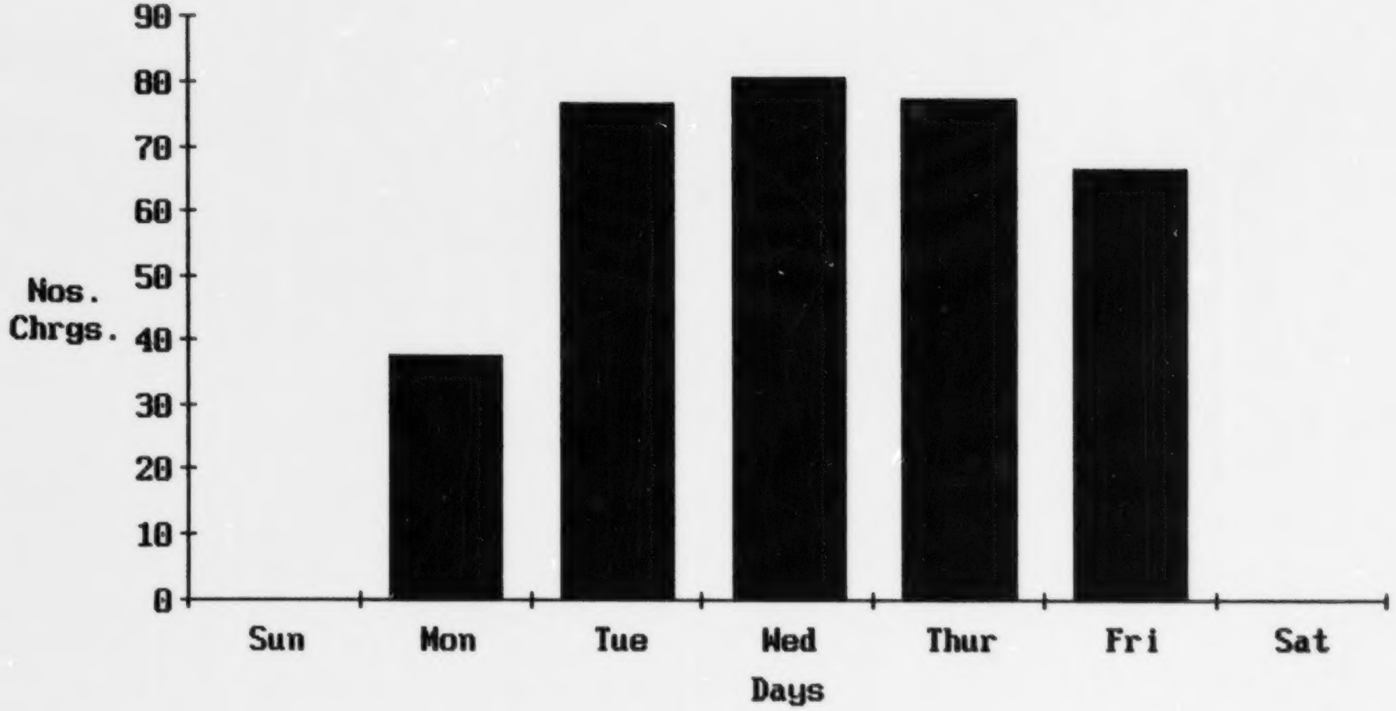


FIGURE 15
ESCORT SERVICES ADVERTISED IN VANCOUVER YELLOW PAGES
1968-1987

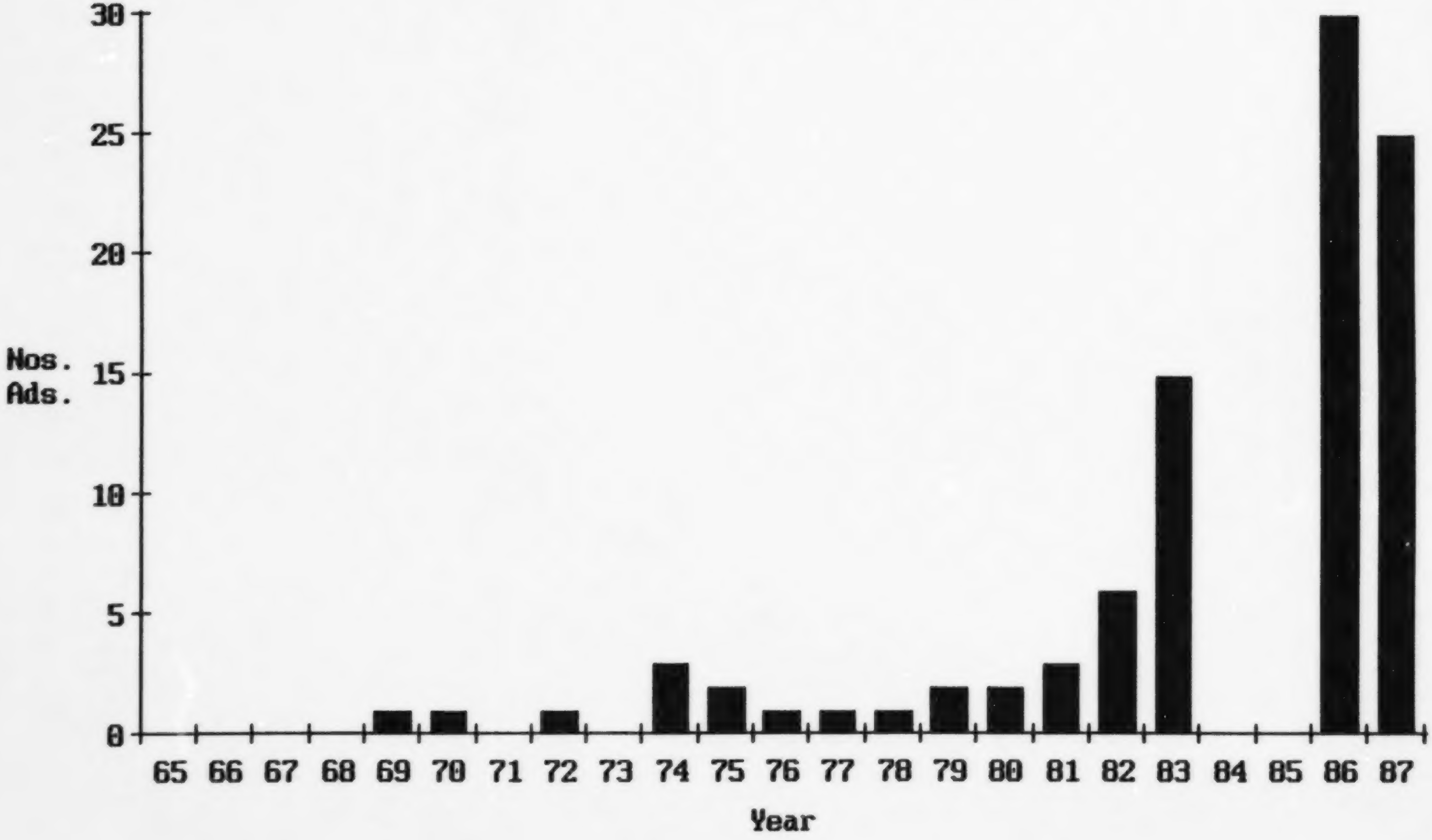


FIGURE 16
AVERAGE NUMBER OF ADVERTISEMENTS APPEARING
IN THE VANCOUVER SUN (FIRST FRIDAY OF EACH MONTH)
1970-1988

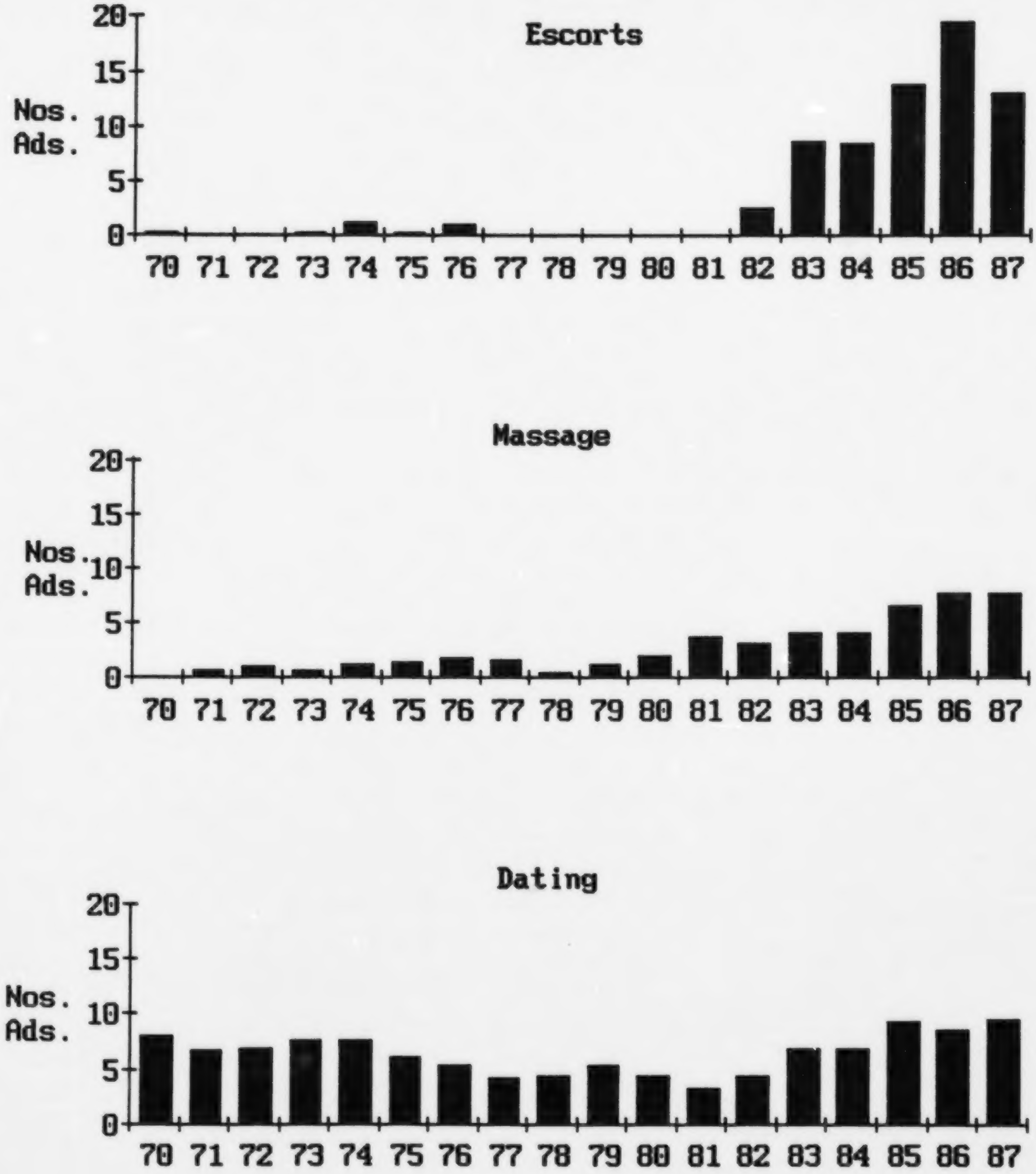


FIGURE 17
ESCORT SERVICES ADVERTISED IN THE VANCOUVER SUN
(COUNTS MADE FIRST FRIDAY OF EACH MONTH)
JULY 1984 to DECEMBER 1987

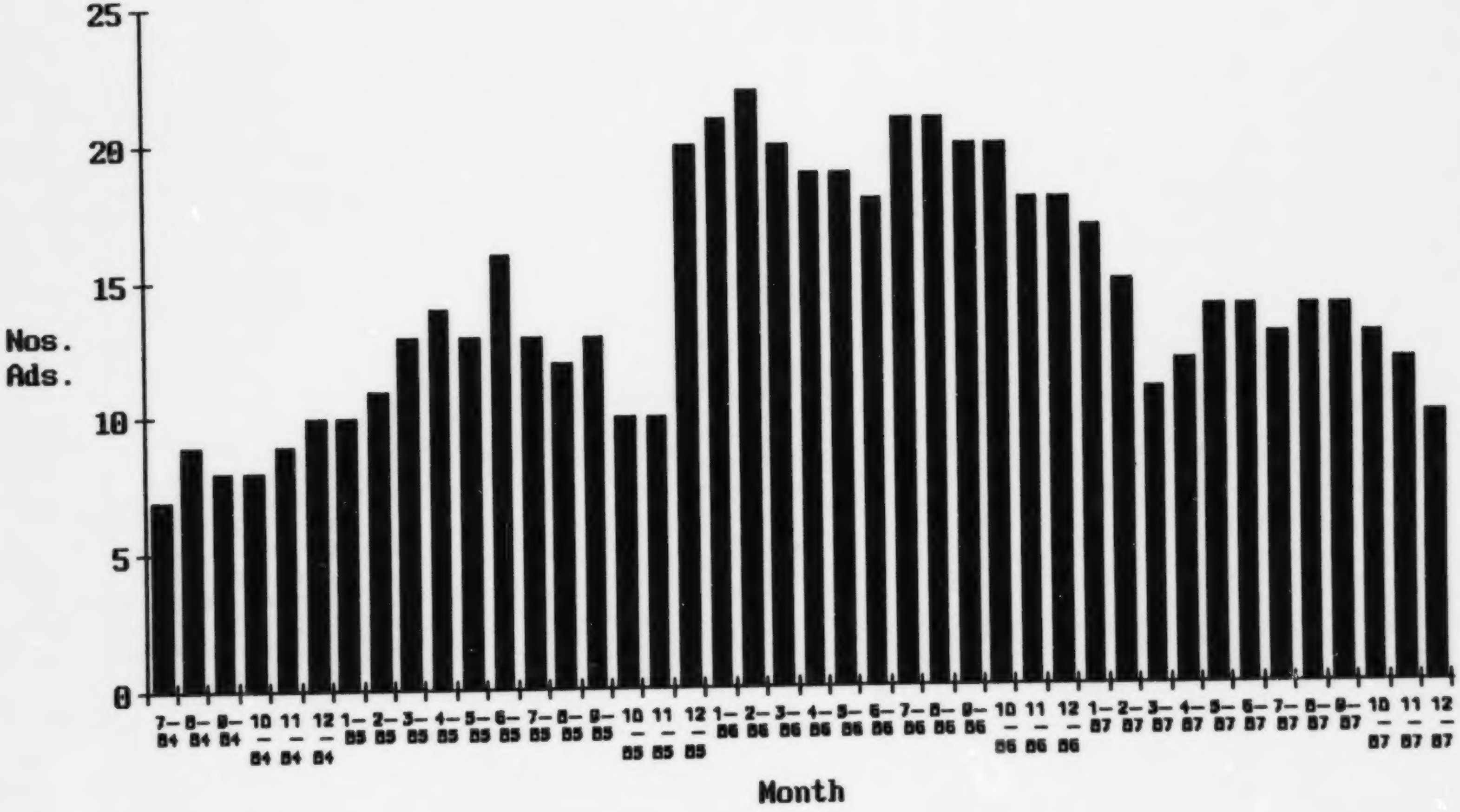
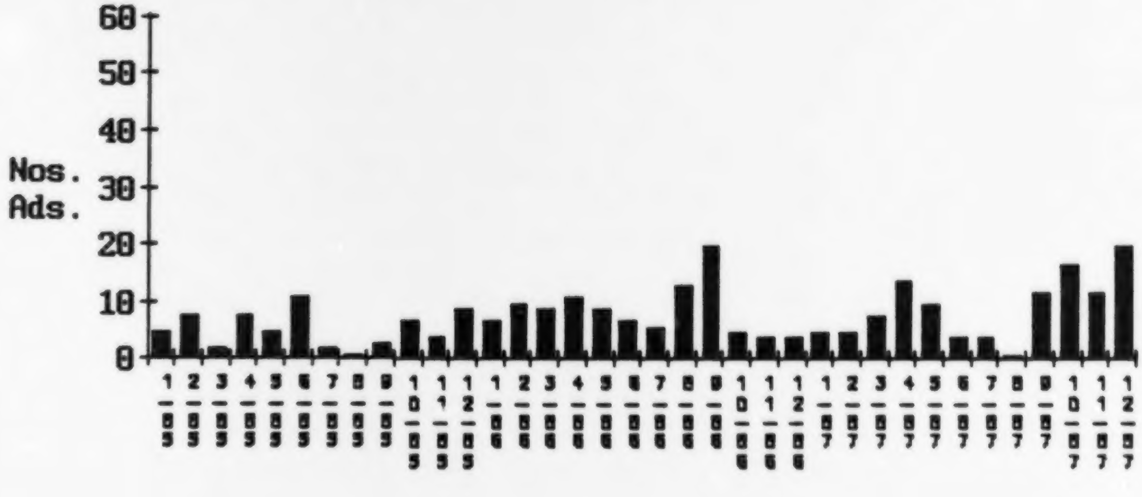


FIGURE 18
PERSONS PLACING ADVERTISEMENTS FOR "GENEROUS" COMPANIONS IN A VANCOUVER SEX MAGAZINE
(MEAN # PER EDITION)

MALES



FEMALES

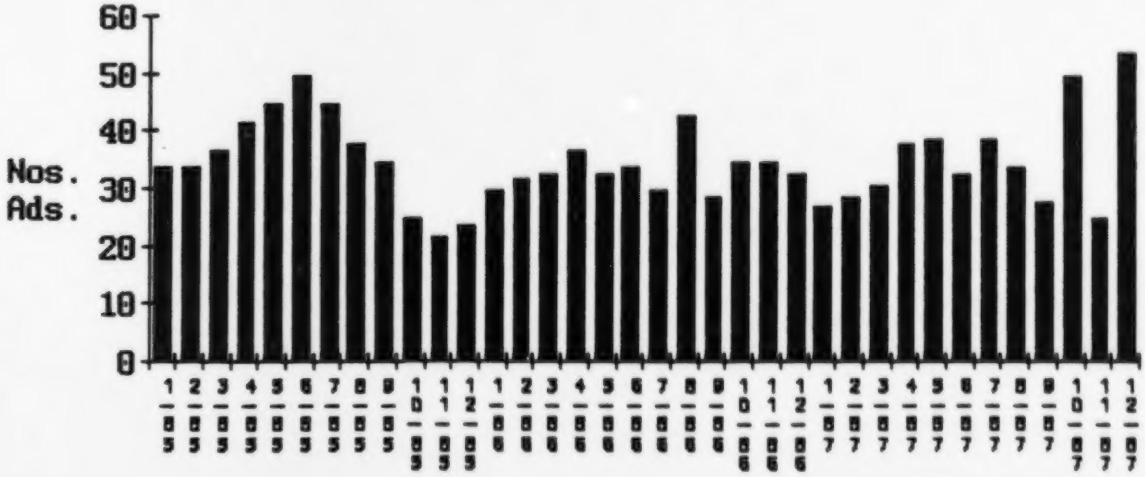


FIGURE 19
TOTAL NUMBER OF SUN AND PROVINCE ARTICLES MENTIONING PROSTITUTION JAN./85 TO MARCH/88

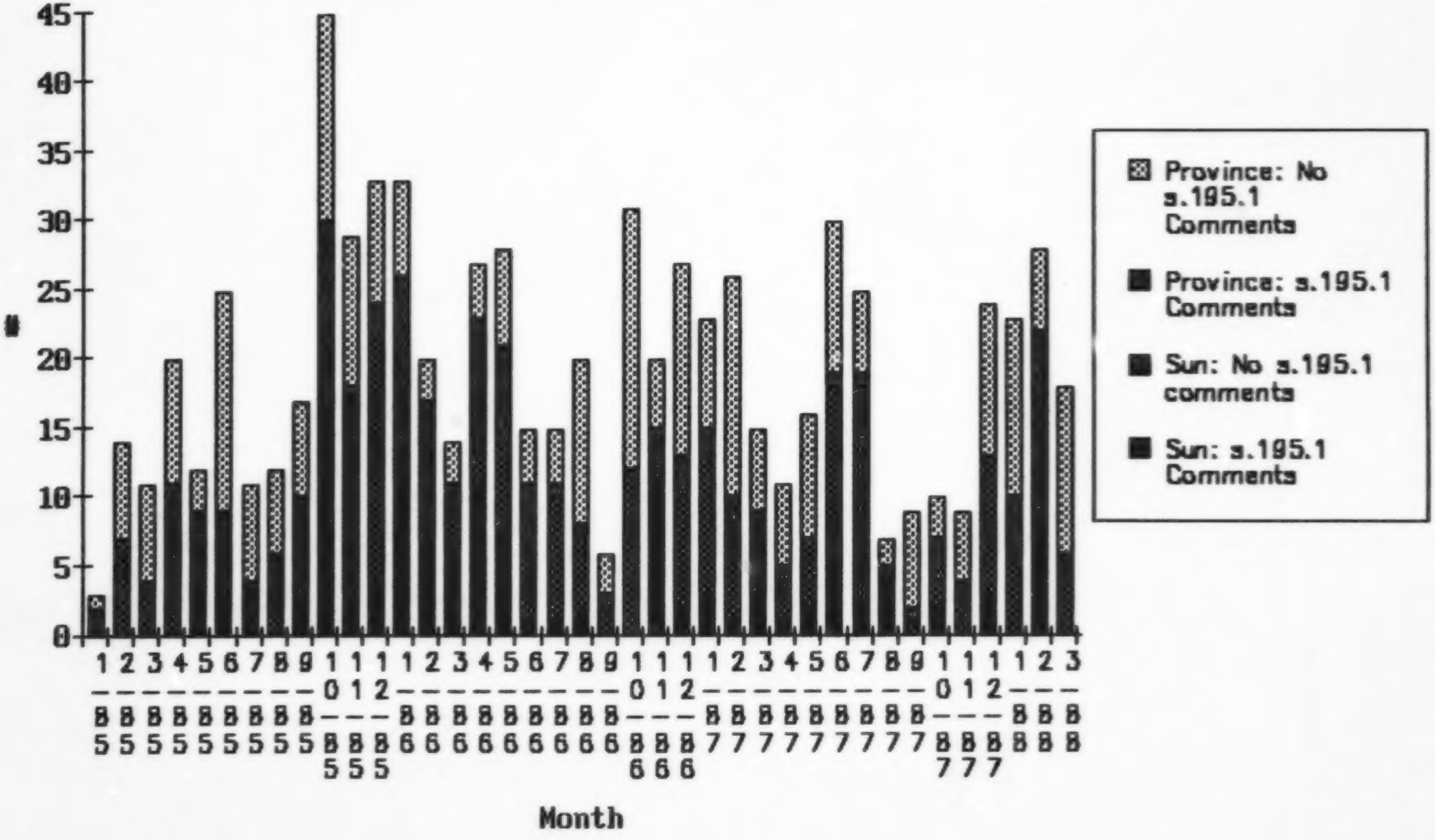
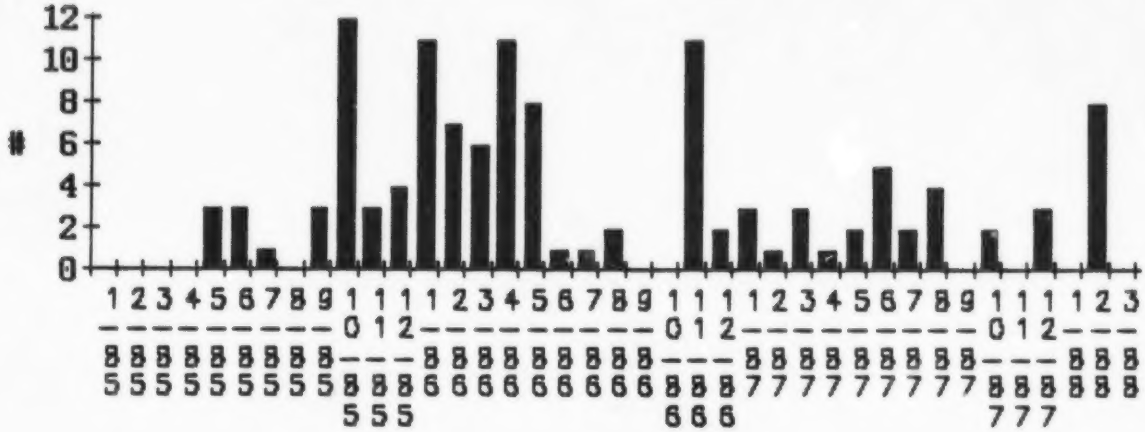


FIGURE 28
TOTAL NUMBER OF SUN AND PROVINCE ARTICLES COMMENTING ON BILL C-49/S.195.1
JAN./86 TO MARCH/88

Sun



Province

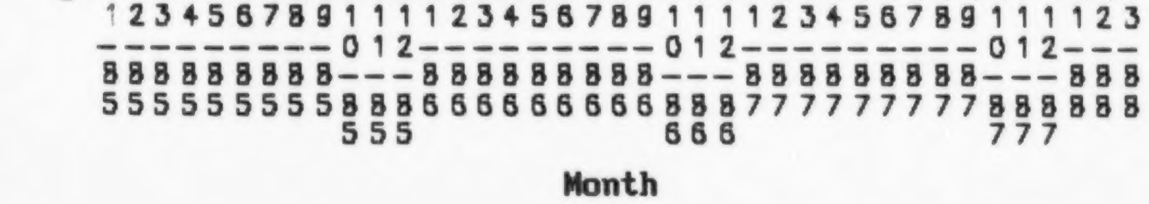


FIGURE 21
TOTAL NUMBER OF SUN AND PROVINCE ARTICLES MENTIONING PROSTITUTION BUT NOT COMMENTING ON BILL C-49/S.195.1
JAN./85 TO MARCH/88

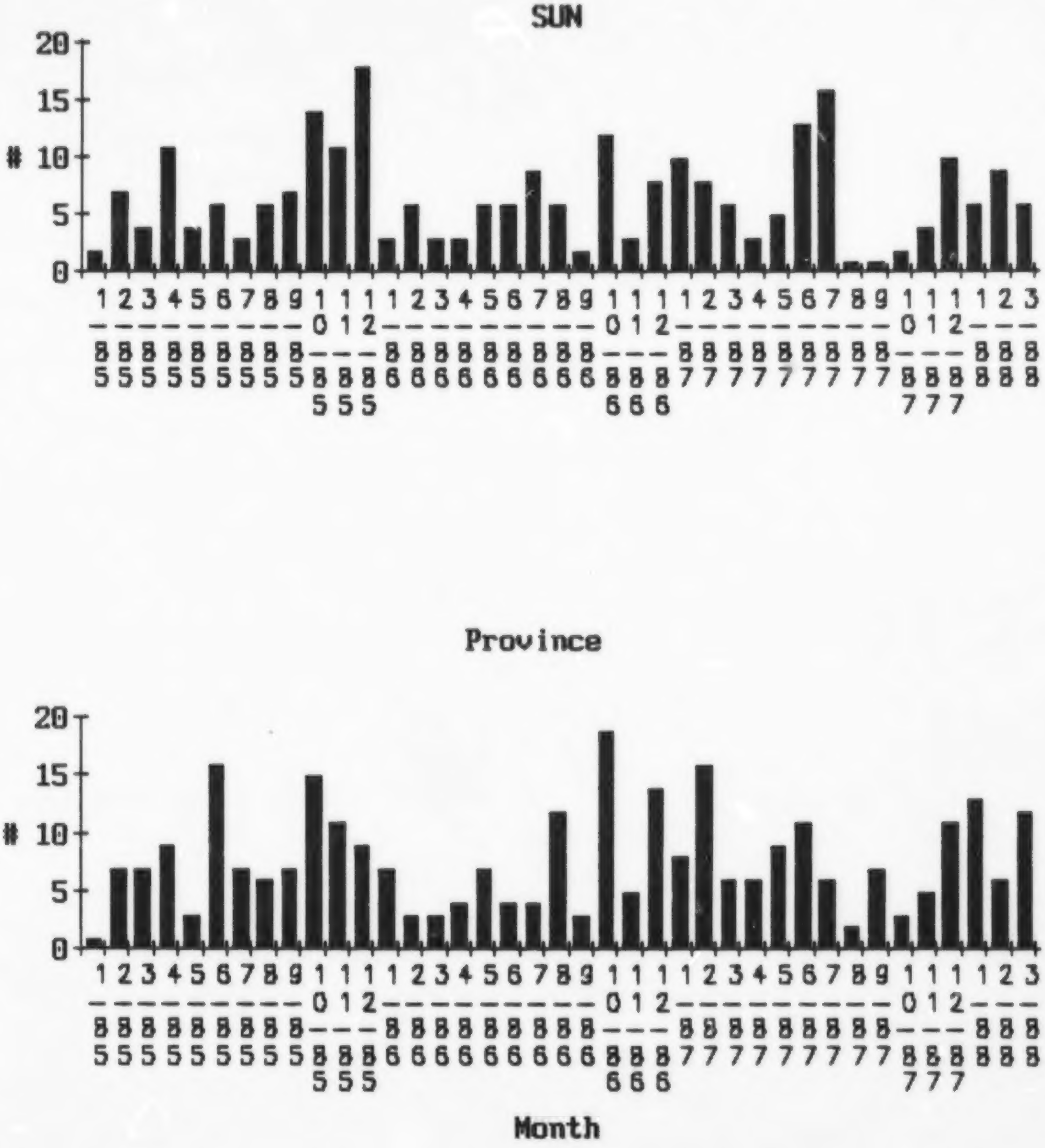


FIGURE 22
AGES OF 191 ADULT PROSTITUTES CHARGED UNDER S.195.1
IN VANCOUVER, JANUARY 1986-JULY 1987

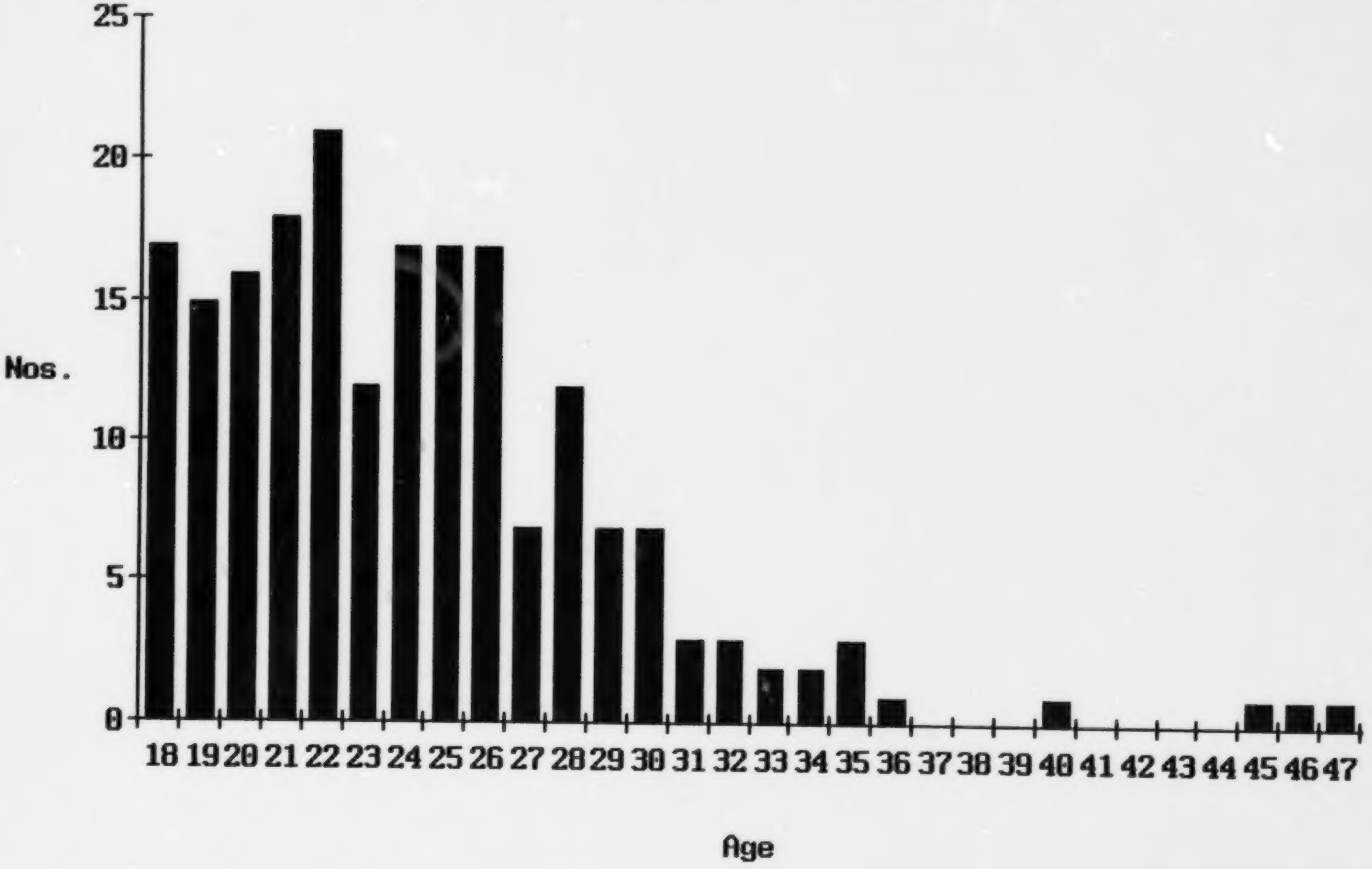


FIGURE 23

AGES OF 215 (MALE) TRICKS CHARGED IN VANCOUVER UNDER S.195.1
JANUARY 1986 TO JULY 1987

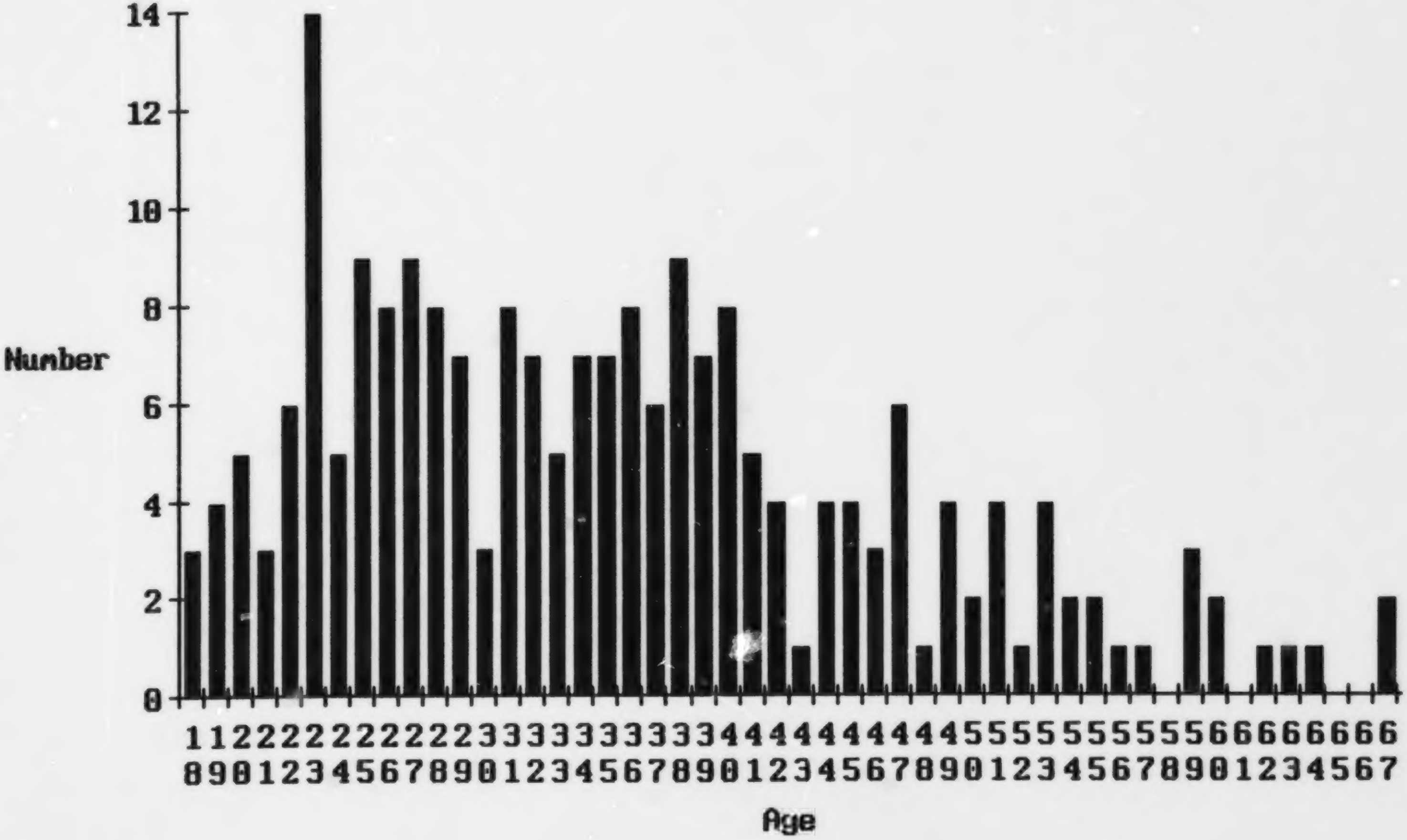


FIGURE 24
BAWDY HOUSE CHARGES IN VANCOUVER, 1907-1954

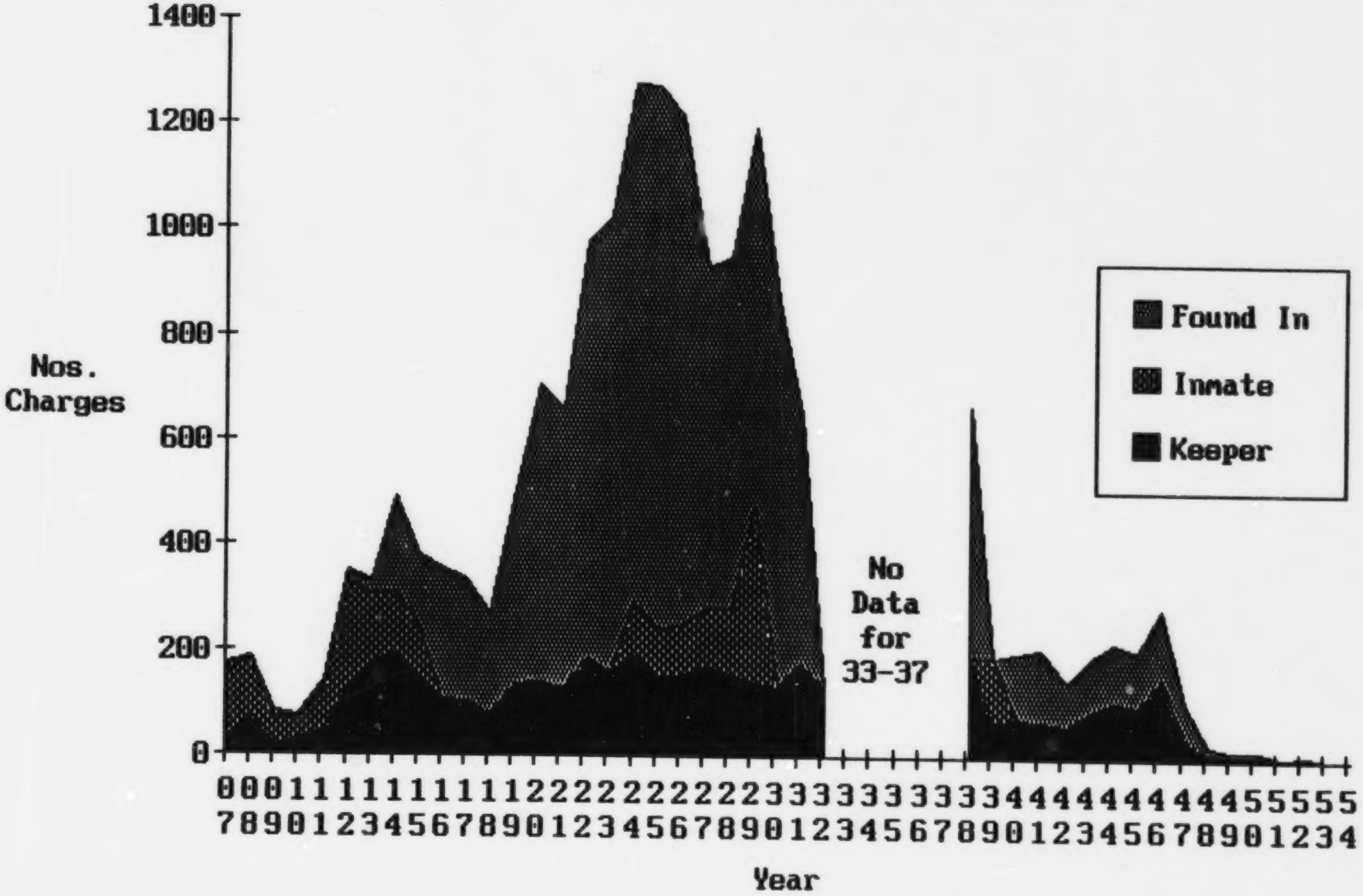


FIGURE 25
BAWDY HOUSE CHARGES (ALL CATEGORIES) IN
BRITISH COLUMBIA, 1952-1982 (1973 MISSING)

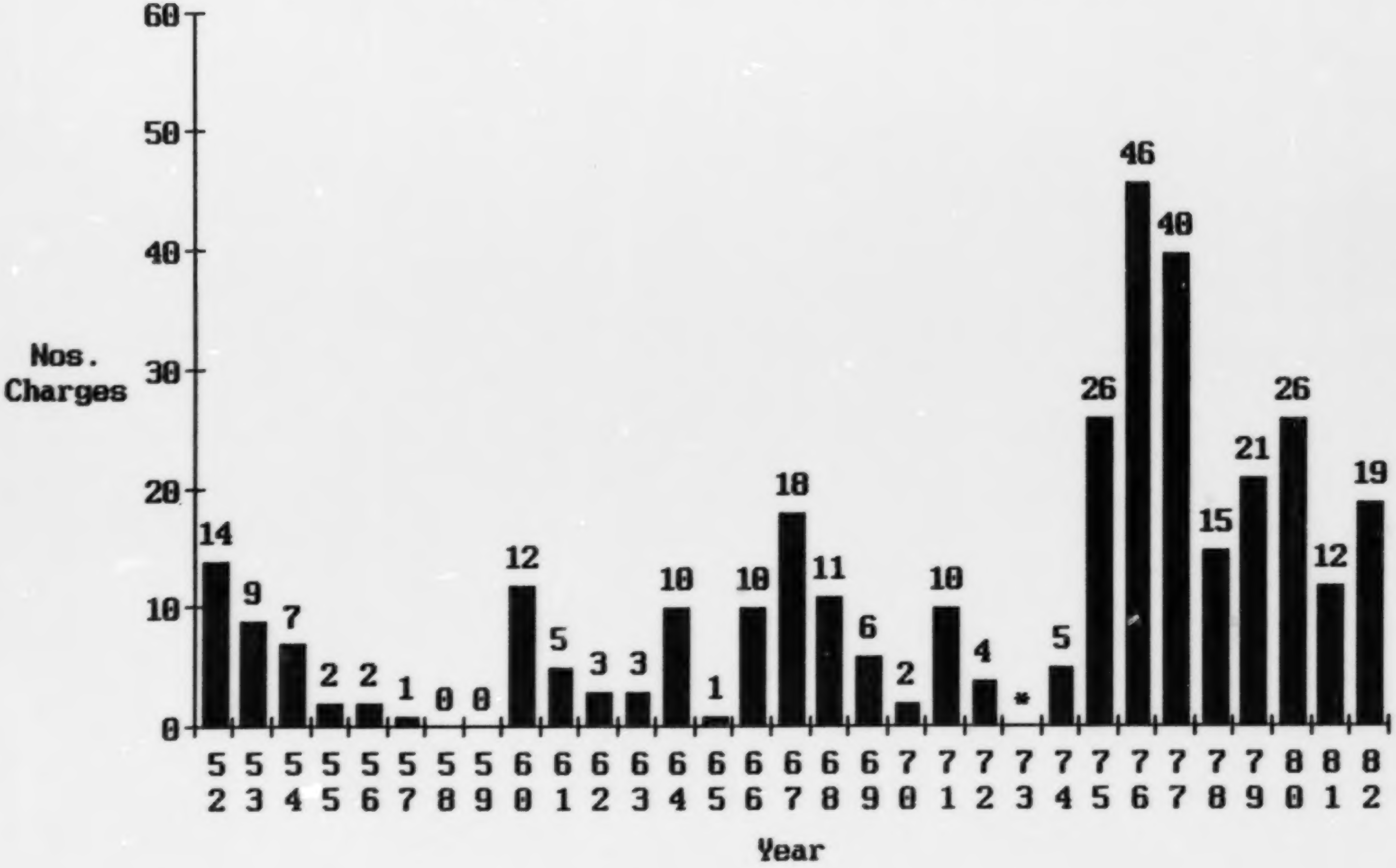


FIGURE 26
(a) VAGRANCY I CHARGES, VANCOUVER, 1919-1954 (33-37 MISSING)
(b) VAGRANCY C CONVICTIONS, BRITISH COLUMBIA 1955-1972
(c) SOLICITING CHARGES (INCLUDING L.O.A.P.), VANCOUVER 1973-1985
(d) COMMUNICATING CHARGES, VANCOUVER 1986-1987